

T H E
Brookings
R E V I E W

WINTER 1994 \$4.50 U.S. / \$5.50 CAN

**The
Sudan**



CABLE CONTROVERSIES

MIDDLE EAST PEACE

THE COURTS AND WELFARE

OVERPAID CEOs?

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RETHINKING SCHOOL CHOICE

Limits of the Market Metaphor
Jeffrey R. Henig

Much of what passes for information in discussions of school choice is actually a mixture of opinion, conjecture, and wishful thinking. *Rethinking School Choice* cuts through the cant. Jeffrey Henig takes a cool-headed view of this complex issue, presenting readers with a comprehensive background and a lucid overview. In a very readable style, Henig examines the popular wisdom and finds that much of it is misinformed or misleading. This is not just a book for policymakers and educators. It is essential reading for everyone who wants to understand this vital issue.

"This book makes a forceful, tough-minded contribution to the raging debate over school choice. But it goes well beyond this debate, and refocuses the way we look at education."—John F. Witte, co-editor of *Choice and Control in American Education*

Cloth: \$24.95 ISBN 0-691-03347-1
Due January 1994



WE ALL LOST THE COLD WAR

**Richard Ned Lebow
and Janice Gross Stein**

Drawing on recently declassified documents and extensive interviews with Soviet and American policymakers, among them several important figures speaking for public record for the first time, Ned Lebow and Janice Stein cast new light on the effect of nuclear threats in two of the tensest moments of the Cold War: the Cuban Missile Crisis of 1962 and the confrontations arising out of the Arab-Israeli war of 1973. In sharp contrast to the conventional wisdom, they conclude that the strategy of deterrence prolonged rather than ended the conflict between the superpowers.

"They've got it just right."
—Mikhail Sergeevich Gorbachev

Cloth: \$35.00 ISBN 0-691-03308-0
Due January 1994

PRINCETON UNIVERSITY PRESS

41 WILLIAM ST., PRINCETON, NJ 08540 • ORDERS: 609-883-1759 • OR FROM YOUR LOCAL BOOKSTORE

JAPAN'S CAPITALISM

CREATIVE DEFEAT
AND BEYOND

Japan's Capitalism: Creative Defeat and Beyond

Shigeto Tsuru

Foreword by **John Kenneth Galbraith**



SHIGETO TSURU
Foreword by JOHN KENNETH GALBRAITH

Japan's defeat in the Second World War was total, but her subsequent reconstruction was extraordinary. In this book one of Japan's most eminent economists gives a comprehensive account of the recovery process and a unique interpretation of the postwar Japanese economy, both as political economist and as government advisor over most of the period.

36058-7 Hardcover \$27.95

Available in bookstores or from

**CAMBRIDGE
UNIVERSITY PRESS**

40 West 20th Street, New York, NY 10011-4211
Call toll-free 800-872-7423.

MasterCard/VISA accepted. Prices subject to change.

THE Brookings REVIEW

WINTER 1994 VOL. 12 NO. 1

6 THE SUDAN

Stop the carnage

Francis M. Deng

CABLE TELEVISION

12 Reinventing regulation

Robert Crandall

16 The First Amendment

Richard Klingler

20 Promoting competition and the public interest

Edward J. Markey

22 CEO PAY

Why such a contentious issue?

Margaret M. Blair

28 AFTER THE ISRAELI-PLO BREAKTHROUGH

Next steps for the United States

William B. Quandt

32 TESTS OF LEADERSHIP

Unavoidable issues of foreign policy

John Steinbruner

36 SAFETY NETS AND MARKET TRANSITIONS

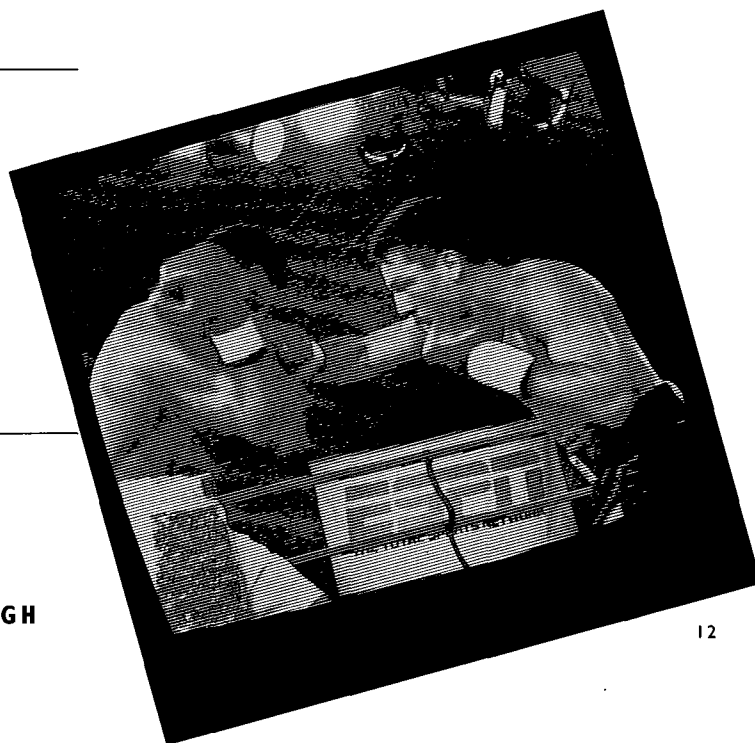
What Poland can learn from Latin America

Carol Graham

40 INTERPRETING ENTITLEMENTS

The politics of statutory construction

R. Shep Melnick



12

Letters 2

A Considered Opinion

Getting It Right on Health Care Reform

Joshua M. Wiener 5

Canada Watch

Electoral Earthquake

R. Kent Weaver 46

World Watch

NAFTA: Doing Well by Doing Good

Nora Lustig 47

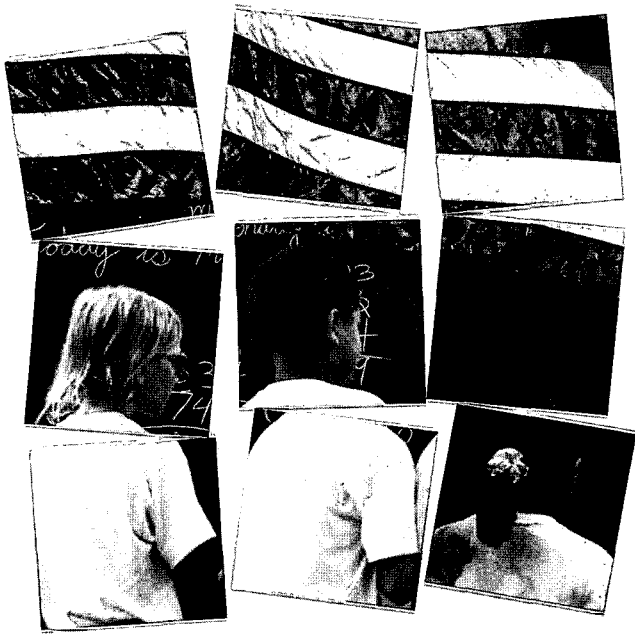
Politics Watch

Crisis, TV, and Public Pressure

Stephen Hess 48

COVER ILLUSTRATION
BY JERRY PAVEY

Multiculturalism—Yes? No? Maybe?



■ Nathan Glazer (“School Wars,” fall issue) identifies me, Arthur Schlesinger, Jr., and Albert Shanker as “the leading critics of a multicultural curriculum.” And while he states that none of us “argues against a healthy diversity that acknowledges the varied sources of the American people and its culture,” he nonetheless contends that we “see a multicultural curriculum as a threat to the way we live together in a common nation.”

I will not presume to speak for Schlesinger and Shanker, but Glazer’s characterization of my views is not accurate. I have been both an active proponent of a multicultural curriculum and an active critic of distortions of multiculturalism. I was one of the principal writers of the California K–12 history curriculum, widely acknowledged as the best current example of a multicultural curriculum. That curriculum integrates the historical experiences of women, African-Americans, Hispanics, Asians, European immigrants, and Native Americans into the fabric of American history, and requires all students

to study *three* years of world history that span the great civilizations of Asia, Africa, the Americas, Europe, and India.

Glazer passes too quickly over the heart of the debate about multiculturalism: its definition. He says only that “we deal with a spectrum of views in multiculturalism” and does not attempt to examine the points on that spectrum other than to note that some are anti-Semitic and racist. But the question of definition is the source of the debate about multiculturalism. Unless one examines the sharply different views about multiculturalism, it is not possible to understand the debate. Instead of suggesting that I am an opponent of multiculturalism, it would have been more accurate for Glazer to say that I have criticized specific propositions that, as he acknowledges, are anti-Semitic and racist.

His characterization of me as a critic is due, I expect, to my argument that those who would immerse children only in the culture of their ancestors are advocates of particularism, not multiculturalism. In my article “Multiculturalism” in *The*

American Scholar (summer 1990), I advocated cultural pluralism in the schools and tried to show that particularism was not the same thing as pluralism, even though its source—the desire to break free of a homogenized “great white male” curriculum—was the same.

While welcoming the advent of pluralism and multiculturalism in our schools and society, I will continue to criticize ideologues or school officials who claim it is okay to teach children to hate people of a different race or religion. I do not believe that these are inconsistent positions. Our ability to live in peace with people from many different cultures requires that we learn about them and develop a broad-minded understanding of a complicated world.

Diane Ravitch, Brookings

There’s No Such Thing As Multiculturalism in General

■ Nathan Glazer gives himself an easy case to make in “School Wars” (fall issue) when he tries to soothe us about multicultural education in general while ignoring the multicultural curricula that underlie the controversy. But youngsters are not taught in general; they are taught according to specific curricula that should be, and can be, judged by scholarly and educational standards. And it is specific multicultural curricula that have multiculturalists like me crying foul.

Glazer concedes that there are extreme and objectionable forms of multiculturalism, but suggests that they are so rare that they are hardly worth a fuss. Yet the Portland, Oregon, “African-American Baseline Essays,” the most widely praised and used multicultural curriculum, suggest that extreme forms of multiculturalism are far from rare.

The Portland essays have a commitment to show ancient

Egypt as the principal source of European culture and as inhabited entirely by blacks, whether the facts fit or not. Sometimes they do; sometimes they don’t. For example, students will learn that ancient Egyptians excelled in math, medicine, and astronomy, a fact on which scholars agree. But they will also learn that ancient Egyptians developed the theory of evolution, understood quantum physics, flew around for business and pleasure in full-sized gliders, and had powers of “precognition” and “remote viewing.”

Glazer urges indulgence of the “somewhat lopsided view” multiculturalists present because African-Americans in particular are dissatisfied with the educational achievement of their young people and so are casting about for new approaches that will hasten their entry into the mainstream. African-Americans have good reason to feel dissatisfied and to seek new approaches to educating their children. But holding out the promise that multicultural curricula that substitute ideology for knowledge and politics for accepted standards of scholarship—curricula that will not be taught to any of the kids with whom minority kids will eventually compete for access to college and good jobs—will help minorities is not only indefensible, it is condescending. The last time I checked surveys, and certainly every time I talk to minority parents and teachers, minorities want their children to be taught according to the same high-quality curricula and standards as youngsters in our most advantaged communities. That’s one “new” approach to educating minority children that we rarely hear about, and yet it’s the only approach that is substantiated by solid evidence. Multiculturalism is entirely consistent with this approach—but not the kind of multiculturalism whose

"lopsided" views and promotion of divisiveness and hatred Glazer shrugs off.

Albert Shanker, American Federation of Teachers

Asian Immigrants and U.S. Schools

■ While agreeing with Nathan Glazer ("School Wars," fall issue) on the need for a change in our school system to provide adequate education for our multicultural nation, the Japanese American Citizens League objects to his generalizations concerning Asian immigrants' attitudes toward education.

Glazer claims that "Asian immigrants . . . seem quite content with the education they get." The Asian-American community has been calling for more inclusive educational materials for some time. JACL itself has spent two years developing a curriculum guide for elementary schools. Asian-American students are still fighting for Asian-American studies courses on college campuses. Where does Mr. Glazer get his conclusions? To whom has he spoken?

Such flippant generalizations are not only insulting, but dangerous, for they perpetuate false information on which public policy is based.

Karen K. Narasaki, Japanese American Citizens League

Help for Children

■ James Wilson concludes ("In Loco Parentis," fall issue) that help for children in dysfunctional families awaits the invention of a "better way" than any now known. He suggests that the solution may lie in boarding schools that would remove children from their families and the inner city at an early age. Although he cites successful model programs (such as those on which Head Start was based) that work with chil-

dren *within* their families and communities, he is pessimistic about efforts to implement these less intrusive interventions on a large scale, arguing that model programs succeed because they *are* model programs.

To my surprise, since we start from such different ideological premises, Wilson's characterization of successful model programs is very similar to my own. We agree that successful programs (whether in child development, education, health, family support, or child welfare) are comprehensive and intensive; they are conducted by capable people with rigorous training and adequate budgets; they work not just with children but also with families; their relationships with families are aimed at minimizing dependence and maximizing self-reliance. But here Wilson and I part company. He cannot "imagine a program that by plan and in the hands of ordinary managers will achieve the necessary personal redemption for large numbers of people," and argues that "efforts to do this on a large scale and by bureaucratic processes have not, on the whole, proved very successful." I conclude that model programs *will* work on a large scale if they are part of larger efforts that improve economic prospects and replace outmoded bureaucratic practices.

This proposition is beginning to be tested in new large-scale initiatives that, "by plan and in the hands of ordinary managers" are collaborating with families and communities to improve outcomes for large numbers of children in neighborhoods of persistent poverty and social dislocation. Effective interventions in many spheres are being joined to provide high-risk children with good health, school skills, and reason to hope, and to strengthen the ability of families and communities to support children's healthy development. Several

of America's most innovative foundations are funding such efforts in Atlanta, Austin, Baltimore, and dozens of other communities. The Clinton administration's plans for community empowerment and enterprise zones have similar potential. (Even welfare reform could be designed to improve outcomes for children as well as families.) The leaders of these initiatives recognize that their best intentions can be undermined by bureaucratic and categorical constraints. Far from regarding them as eternal verities, these pioneers are determined to develop alternatives to the fragmented funding, rigid regulation, lack of front-line discretion, and input-based accountability of the past.

Wilson is one of the world's greatest authorities on bureaucracy. I would hope he would join in devising ways to free the institutions trying to work more collaboratively and flexibly with families and communities from many of their present constraints.

Lisbeth B. Schorr, Harvard University

Forcing Americans to Save

■ The political and economic implications of the mandated savings program that William Gale and Robert Litan propose ("Saving Our Way Out of the Deficit Dilemma," fall issue) are more complicated than their short article can suggest.

If mandated saving is construed in the least favorable light—as a hidden tax that lets the government avoid hard choices about taxes and spending—it sounds like a dangerous expansion of an interventionist government. But is it? Is it more interventionist to force a person to put an extra \$1 in a savings account than to force him or her to give it to the government as a tax increase? Which measure is likely to lead to a bigger increase in government spending? The po-

litical analysis is even more complicated if we recognize that the least interventionist arrangement for old-age income security in the world, the private pension scheme in Chile, is precisely a government savings mandate.

If we promise to provide a decent safety net of health and income benefits for older citizens who have suffered from genuine misfortune, we must expect that many middle-income workers will save nothing and will demand that the government provide for all of their needs after retirement. Using the income or wealth of retirees to means-test access to government benefits further reduces the incentive to save.

Unless we make it clear that most people can and should provide for their needs in old age by saving when they are young, a growing fraction of the population will end their lives as wards of the state. Once a majority of voters are totally dependent on payments from the government, the politics of the current system could get ugly. Perhaps we should consider an alternative.

Paul M. Romer, University of California, Berkeley

Brickbats across the Atlantic

■ Catherine Kelleher's article on the future of U.S.-EC relations ("A Renewed Security Partnership?" fall issue) could not have been more timely in light of the recent public criticism flying across the Atlantic.

That Clinton and most European leaders are preoccupied with domestic issues cannot be allowed to lead to an attitude of "stop the world—I want to get off." The international problems that the United States and the EC face can be solved only by working together on the basis of a common analysis and agreed action sharing both burdens and responsibility.

Certainly there will be areas

where Brussels or Washington will wish to take the lead, but the scale of the major problems facing us (the reform process in Russia, securing peace in the Middle East, preventing nuclear proliferation) is such that only a coordinated approach stands any chance of success.

As Kelleher correctly points out, such an approach will require changes on both sides: the United States accepting that the EC should be an equal partner in decisionmaking and the EC making a reality of the Common Foreign and Security Policy. Neither will be easy to achieve, but at least this approach offers the prospect of joint action to deal with pressing problems. Throwing brickbats at each other is a recipe for disaster.

Fraser Cameron, European Commission, Brussels

Catching Up with Reality

■ Catherine Kelleher's article on the future of NATO ("A Renewed Security Partnership?" fall issue) prompts the following comments.

With the disintegration of the Soviet Union, the bipolar system of security that grew out of World War II and postwar developments became a thing of the past. However, the ways of thinking of politicians, diplomats, and experts, as a rule, lag considerably behind political developments—as evidenced by the political decisions that aim at retaining at least the appearances of the old regime that underlay East-West security. Such a response, understandable though it is in the psychological sphere, poses a serious threat on the politico-military plane.

Thus, the new security environment not only is devoid of a new strategy but also even lacks any ideas organizing the new realities and challenges in a conceptual framework. There are three typical responses.

First is a conservative ap-

proach that results from a sui generis triumphalism. Since, in the competition between East and West, the values by which Western democracies are guided won, there is no need to introduce essential changes in the Western security architecture, but rather a need to strengthen and consolidate it.

The second, and opposite, response is characterized by perplexity and pessimism and motivated by the uncertainty and unpredictability of the new challenge. It often gives rise to a speculative, unreal search.

The third, and most popular, response is the call for a need to think in new terms, accompanied by a reactive approach rather than a creative one. Its distinctive feature is pragmatism. For the most part, it consists of statements of the need for Eastern Europe and Russia to return to Europe. This smacks of entreating reality. In practice, however, we are witnessing the closing off of the West for fear that the chaos and conflicts engulfing former Soviet territory will flood the prosperous and safe countries of Western Europe.

It is important to look from this perspective at the widely debated issue of membership of some Eastern European states in NATO. The question here should be how NATO could help these states, as it did in the case of Portugal or Greece, and not so much whether there is a certain compatibility allowing for membership. If a ship is not properly anchored in a harbor, it may easily become uncontrollable and drift away.

*Adam Daniel Roffeld,
Stockholm International Peace
Research Institute*

Media Violence: The Government Must Act

■ It takes courage to argue, as Martha Bayles does ("Fake Blood," fall issue), that if we want to understand the ubiqu-

ity of violence in the mass media, we have to look at the fascination with shock exhibited by our cultural elite. It has indeed become impossible to deny that there is a relationship between the violence that has reached unprecedented levels in America and the content of the one cultural medium that reaches more Americans than any other.

If culture is where we have to focus our attention, the public health approach, which Bayles finds "commendable," may be misleading. We have, in America, a tendency to seek political objectives by cloaking them in other languages. Hence instead of trying to understand violence as either on the one hand a breakdown of character or on the other a response to poverty, we call it an epidemic and seek the equivalent of a cure. But violence is not an epidemic in any medical sense. It arises because of the signals sent by our cultural institutions to the people whose lives are shaped by them.

For this reason I believe that government must intervene, even if regulation as traditionally understood, as Bayles points out, may not be possible. Government has dealt effectively with other human behaviors that cut life short: smoking, for example, or poor diet. The Attorney General can play the same role as the Surgeon General, reminding us that we have to protect the body politic just as we protect the body. We have taken the first step, however tentative, in which government will regulate weapons. The next step is to do something about the images and pictures in which such weapons are used.

Alan Wolfe, Boston University

The Review welcomes comments from readers. Letters will be edited to conform to style and space.

Brookings President

Bruce K. MacLaury

Vice President, External Affairs

John M. Hills

Director of Publications

Robert L. Faherty

THE BROOKINGS REVIEW

Editor

Brenda Szittyta

Production

Susan F. Woollen

Proofreader

Ellen Garshick

Marketing and Advertising

Jill Bernstein, Gail Sipfle,

Elizabeth A. Benevides,

Glenda Simmons

(202) 797-6254

Circulation

Renuka Deonarain

Ann M. Lofton

Copyright © 1994 by the Brookings Institution. All rights reserved.

Subscriptions: one year \$17.95 (\$24.95 foreign); two years \$32.95 (\$46.95 foreign). (800) 275-1447; (202) 797-6258

Postmaster, send address changes to:

The Brookings Review,
1775 Massachusetts Ave., N.W.,
Washington, D.C. 20036

Second-class postage paid
at Washington, D.C.

USPS I.D. No. 010-099;
Publication No. 551640.

Reprint permissions:
(202) 797-6107

U.S. newsstand distribution by:

Ingram Periodicals Inc.

1117 Heil Quaker Blvd.
La Vergne, Tenn. 37086
(800) 627-6247 (ext. 4500)

The Brookings Review
(ISSN 0745-1253) is published
quarterly by The Brookings Institution

Design and art direction by
Meadows & Wiser

Printed in U.S.A.

Getting It Right on Health Care Reform

BY JOSHUA M. WIENER

With the unveiling of his health care reform proposal, President Clinton has launched a historic debate about how—not whether—our health care system should be changed. So far, most of the public and media attention has focused on the president's proposal, largely highlighting its potential difficulties. Much less attention has been given to the competing proposals that have been introduced on Capitol Hill. The key policy question is whether these other proposals offer something superior to the administration proposal. The short answer is that while the president's plan is not flawless, it certainly beats the alternatives, whether liberal or conservative.

On the left, a single payer, government-run national health insurance plan such as the one crafted by Senator Wellstone (D-MN) and Representative McDermott (D-WA) promises universal coverage, simplicity, and administrative savings. But Congress will not enact it—not because of health policy objections, but for tax policy reasons. Last year's bruising budget battle, on top of the election returns in November 1992, makes it simply inconceivable that the president and Congress would agree to raise the \$400-\$500 billion a year in additional taxes needed to fund the program. Even if officials made the case that societal costs would be the same or less, distaste for taxes is so high that the public would not accept them.

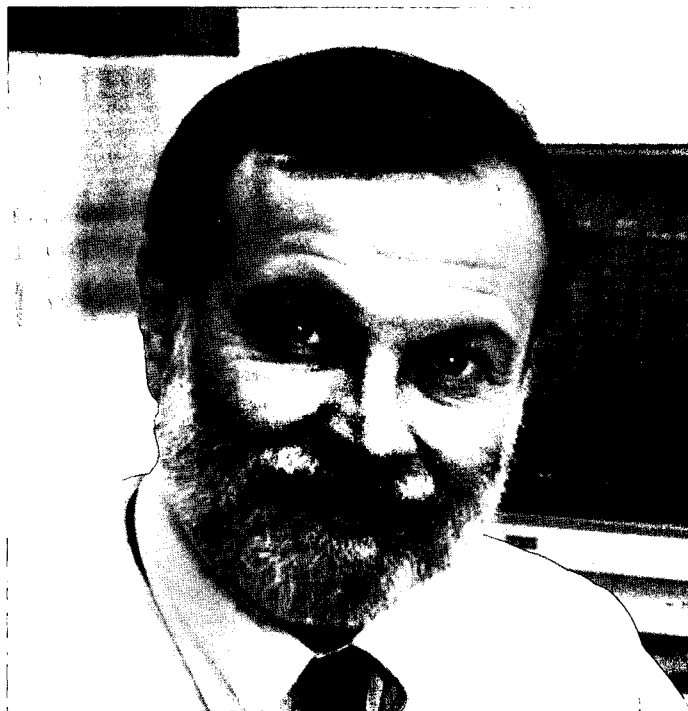
On the right are a variety of market-oriented reform plans—sponsored by Senator Chafee (R-RI), Senator Gramm (R-TX), Representatives Cooper (D-TN) and Grandy (R-IA), and Representative Michel (R-IL) and the House Republican leadership. All fall short in achieving universal coverage or controlling costs. First, rejecting the president's employer mandate and

subsidies for small businesses, all the market reform plans depend on providing tax credits or vouchers to help uninsured Americans purchase health insurance. But if the tax breaks are not generous enough to actually help people buy insurance, many people will remain uninsured. And if the tax subsidy is large enough to help people buy insurance, most companies now providing health insurance to their employees will stop. Why should they pay for health insurance, they will ask, when the government will do it? Once that happens, government costs will soar.

In the area of cost containment, these more conservative plans reject the administration's global budgets and regulatory measures and rely exclusively on market mechanisms to control costs. Yet most of the market mechanisms on which they rely—community rating, uniform contributions by employers to health plans, standardized benefit packages, and increased information to consumers about the cost and quality of health plans—are already in the president's plan. If these are sufficient, the president's plan will control costs without using its regulatory powers. But if they are not sufficient, only the president's proposal has a backup system.

The conservative alternatives do include a few more cost containment proposals. The most prominent is to strictly limit the extent to which employers' contributions to health insurance can be deducted as a business expense and excluded from employees' income for income tax purposes. The idea is to make both employers and employees more cost conscious in choosing health insurance. The president's plan includes a "tax cap," but it is a weak one.

A tax cap has several policy virtues. It could raise a lot of



revenue, is reasonably progressive in its effects, and would provide further incentives for insurers to control costs. But advocates have exaggerated its likely cost containment impact. The federal revenue loss attributable to the tax treatment of health insurance was about \$65 billion in 1992. Given that overall health spending for the year was \$838 billion, even cutting revenue losses by a third (\$22 billion) could probably not dramatically contain costs.

Nor is a tight tax cap politically feasible. Unions strongly oppose it because they have given up wage increases to get generous health benefits and do not want a tax increase for their members. But opposition is broader than that. President Bush had to remove a tax cap from his health reform package to mollify House Republicans. Regardless of its policy virtues, a tough tax cap is a tax increase by another name and will be strongly resisted.

Americans universally believe

that our health care system is fatally flawed and needs a radical overhaul. There the consensus ends: few can agree on what should be done. The chief alternatives to the president's plan have serious weaknesses, either in enactability or in their ability to achieve their goals. The harsh reality is that we are faced with a collection of extremely difficult and unpalatable choices. The president cannot argue that his plan is perfect. He can argue that it is better than its competitors. ■

Joshua M. Wiener, a senior fellow in the Brookings Economic Studies program, worked with the White House Task Force on Health Care Reform. He is the coauthor of Sharing the Burden: Strategies for Public and Private Long-Term Care Insurance (Brookings, 1994).



THE SUDAN: STOP THE CARNAGE

FRANCIS
M. DENG



RECENT ALLEGATIONS LINKING THE Islamic regime in Khartoum with international terrorism have tended to distract the attention of U.S. policymakers from the twin tragedies of civil war and famine that have despoiled the Sudan over the past 10 years. But international and domestic developments in the Sudan are closely linked, for the war-torn nation has proved a fertile breeding ground for Islamic fundamentalism. A successful effort to stop the war would not only put an end to untold human suffering. It could

Francis M. Deng is a senior fellow in the Brookings Foreign Policy Studies program. He is the author, most recently, of Protecting the Dispossessed: A Challenge for the International Community (Brookings, 1993).

also go far in taking Khartoum off the world terrorism map.

Sudan's current civil war began in 1983. The brutal conflict was soon compounded by famine, and by the late 1980s both sides—the government in the north and the rebels in the south—were using food as a primary weapon. Relief supplies were obstructed, starving people denied freedom of movement and residence, relief workers executed. In 1988 alone a quarter of a million people in the south, almost all civilians, lost their lives. Despite an international relief effort that began in 1989, starving masses continue to be victims of the civil war. Although far less publicized, the crisis is even worse than those in Bosnia or Somalia. In the south at least

half a million civilians, perhaps as many as a million, have died, and more than 5 million have been uprooted. Most live either in appalling conditions as squatters in northern urban areas or endure the hardships of life in the southern war zone. All live deprived not only of their homes and food, but of education, basic health care, and political rights. Besides suffering a human rights calamity, the Sudan has also fallen victim to insidious political instability and the virtual collapse of the economy.

Compounding the tragedy is the view taken by successive governments that all civilian populations who are racially or ethnically identified with the rebels are not citizens who deserve protection and assistance from their government, but part of the enemy, to be fought by all means, including starvation, disease, and denial of essential services. The Sudanese civilians of the south are essentially a people oppressed by national sovereignty and without any sovereignty of their own. Their plight calls out for external humanitarian intervention not only to provide urgently needed relief, but to end the war and help reestablish civil order.

The Evolution of the Civil War

Ofall the issues dividing the warring parties in the north and south, none is more difficult to bridge than their sharply differing views on the relationship between religion and the state. The predominantly Muslim north is committed to the tenet of Islam that there can be no separation between religion and the state. The predominantly non-Muslim south is equally dedicated to the separation of religion and the state and to the model of Western secularism.

Although relations between north and south have long been hostile and marred by armed conflict, the current civil war was touched off by the September 1983 decree, by former President Gaafar Nimeiri, of the rule of Sharia, or Islamic law. The government then divided the south into three regions, in violation of the 1972 Addis Ababa agreement that had ended the first phase of the north-south conflict, which had lasted for 17 years. The south reacted with a wave of violence, led by John Garang and what has become the Sudan Peoples Liberation Movement and its Army (SPLM/SPLA). As the armed struggle went on, the political struggle became focused on what to do about the September Laws. Efforts to abrogate the laws to accommodate the south failed because those in control of the government argued that once the laws had been promulgated, no Muslim leader could dare to repeal them. When an agreement was eventually reached between the SPLM and the controlling political forces to “freeze” these laws, the Revolution for National Salvation, an alliance of the National Islamic Front (NIF) with sympathetic elements in the army, seized power in June of 1989—the latest installment in the civilian-military rotation of power the Sudan has suffered since 1958. As matters now stand, the Revolution for National Salvation is solidly committed to the rule of Sharia; the Sudan Peoples Liberation Movement is equally opposed.

But the two sides in the Sudanese civil war are divided even more deeply than that. Religion, in fact, is in many ways merely a symbol of all that divides the parties and determines their relative position both in the power hierarchy and in the distribution of wealth, services, and opportunity.

Centuries in the Making

The current cleavage between north and south in the Sudan is the outcome of centuries of the stratification and grading of races, ethnicities, cultures, and religions in favor of Arabism and Islam. From ancient times Arab traders, favored by wealth and prestige, intermarried into leading Sudanese families of the north. With the coming of Islam in the seventh century, the process intensified, for, apart from the military and economic power behind it, Islam was seen as superior to the local religious beliefs and to Christianity.

Arabization and Islamization built on the pre-existing Sudanese social structures and embraced even the pagan belief systems and practices. In racial, cultural, and religious terms, what emerged is a mold that is uniquely Sudanese. Most of the Arab tribes of the north do not resemble their fellow Arabs in North Africa and the Middle East, but they are intensely proud of their Arabism and trace their genealogies back to Arabia and, in some instances, to the tribe and family of the prophet Mohammed. And they are deeply religious in their indigenized version of Islam.

But northern Sudan was not uniformly affected by Arabization and Islamization. Some parts, notably the Fur and the Nuba in the west and to a lesser extent the Beja in the east, were little influenced by Arabization, although the people adopted Islam with a zeal reinforced by their indigenous belief systems. In the far north the Nubians retained their language and sense of identity despite adopting and integrating Arab elements. These non-Arab anomalies in the north are significant because Islam in the Sudan, unlike in many African countries with Muslim majorities, tends to be associated with Arabism as a composite concept of race, ethnicity, and culture.

The southern Sudan was never subject to the influences of Arabization and Islamization. For centuries contact between north and south was mostly hostile and consisted largely of invasions by slave hunters and incursions by successive governments trying to expand their domain. The two parts of the country remained distinct, seeing hardly anything in common.

The north-south dualism was confirmed, reinforced, and deepened by the British colonial intervention at the end of the 19th century. The colonial government showed sensitivity to the Arab-Islamic sentiments of the north and even considered itself “Islamic.” But in the south Britain adopted a separatist policy, closing off the region, discouraging Arabism and Islam from infiltrating, and encouraging Christian missionary education, with instruction in the vernacular languages and English. And while the north developed economically and politically, the south was, until shortly before independence, denied any social, economic, or political development.

Following independence in 1956, various Sudanese governments tried to foster national unity by extending the policies of Arabization and Islamization to the south. But by then the south was no longer the spiritual vacuum that the Christian missionaries had assumed and tried to fill. For one thing, the educated southerners had developed more deference for their “African” identity and its spiritual and moral values. For another, Christianity had become not only a religion but also a tool with which to resist Arab-Islamic assimilation. In reaction to the threat from the north, the south forged a new identity, welding together notions of Africanism and received

Western and Christian values. The SPLM/SPLA in the south is the culmination of this process.

To make matters more complex, centuries of Arabization and Islamization broadened, but did not replace, the parochialism of Sudanese tribal society. Sectarian structures and loyalties linked with the tribal system and regional identities to provide grass-roots support for the religiously based political parties that began to emerge with the nationalist movement for independence. In reaction to traditional sectarian leadership that they saw as too conservative and as antithetic to modern nationbuilding, various radical movements, including the Communist party, the Republican Brothers, and the Muslim Brothers, grew up in the north in opposition to sectarianism. The only such movement that actively survives today, the Muslim Brothers, reorganized as the powerful National Islamic Front, is widely recognized as the force behind the present military regime.

Barriers to National Consensus

Although the military regime and the NIF take a strong position on the issue of Sharia, they can hardly be said to be the source of the problem. What they have done is to radicalize the Islamic pattern and make it uncompromisingly rigid. The Islamic agenda itself has been shared in varying degrees by successive regimes before and since Nimeiri. The debate over Sharia goes back to the earliest constitutional discussions following independence. Indeed, given the history of the country as a whole, the role of Islam in the state has been an issue for centuries.

While the debate on the role of religion in the state affects virtually all Arab-Islamic states, the Sudanese case is exceptionally problematic because of the sharp division between those who identify with Islam and the associated notion of Arabism and those whose identity derives primarily from resisting Arab-Islamic hegemony. Indeed, what southerners resent and resist is not so much assimilation into the Arab-Islamic mold as it is the domination associated with its imposition. And that resistance has proved to be the most formidable barrier to establishing an Islamic state in the Sudan. Even those northerners opposed to Sharia tend to justify their position with reference to the south.

The sectarian political parties that have tried to be more accommodating to the non-Muslim south derive their political support from the religious affiliation and loyalty of the rural masses who constitute the overwhelming majority of the country. But although numerically the sectarian parties are dominant, the political situation favors the NIF because the masses of Sudanese Muslims in the countryside are profoundly religious in a way that can be swayed in a liberal or fundamentalist direction, depending on leadership. And as the leaders of the sectarian parties stand equivocating between liberalism and fundamentalism, the NIF and its allies come in full force with a clear vision for Islam that the masses cannot oppose, not necessarily because they fully understand or agree with the message and methods, but because these forces represent the most vocal voice for Islam in the emerging context of the modern nation-state.

Nimeiri's September Laws themselves could be attacked and possibly even repudiated (as not authentically Islamic), but the broad principle of commitment to Sharia advocated by NIF and the present government is more difficult for the

Muslims to attack or challenge, except perhaps on the grounds that it is being imposed through military force.

As a result, although there are northerners who would full-heartedly endorse the secular agenda of the SPLM/SPLA and the principle of full equality without discrimination because of religion, few indeed can afford to come out openly for a full separation of religion and state. And religious inhibitions are now reinforced by the policies of a government intent on oppressing the liberal secular point of view among the Muslims.

Advocates of Sharia argue that the non-Muslim minority should accommodate themselves to the will of the Muslim majority, whose moral obligation is then to guarantee minority rights. The SPLM/SPLA, speaking largely for the disadvantaged non-Arab population, turn the tables and argue that the indigenous Sudanese, including the non-Arab Muslims, are also a racial or an ethnic majority that could conceivably be mobilized to counter the majority based on religious affiliation. Whether that is feasible or not, they assert that inasmuch as the Muslims are inclined to use the logic of their religious majority, these groups could use the logic of their ethnic majority to justify fashioning a Sudanese state that is not based on Islam or Arabism, even though it would recognize and respect the religious and cultural rights of the Muslims and the Arabs.

THE SUDANESE CIVILIANS OF THE SOUTH ARE ESSENTIALLY A PEOPLE OPPRESSED BY NATIONAL SOVEREIGNTY AND WITHOUT ANY SOVEREIGNTY OF THEIR OWN.

Northern Sudanese, seeing Arabism and Islam as historic symbols of elevation to a higher order of existence, whether racially, ethnically, or spiritually, see a more Africanized secular Sudan not only as a threat of demotion, but indeed an insult by a presumptuous, but not harmless aspirant. That the SPLM/SPLA dares to think of imposing this goal by military force makes the idea even more outrageous to northerners, including liberals.

No Common Ground

As thus formulated, the Sudanese conflict tends to assume a zero-sum character, and negotiation is likely to be seen by both sides as merely a game of wits, a Machiavellian maneuvering without a common ground or collective national vision that would ensure for all Sudanese a sense of belonging and participation in the nation on an equal footing.

Though both sides continue to use the rhetoric of national unity, solving the conflict within the framework of a single nation is becoming increasingly difficult. The compromises required of both parties to preserve a united Sudan simply do not seem plausible.

Compounding the problem is the now factionalized position of the SPLM/SPLA on the issue of unity, with the Riek Machar-Lam Akol wing of the SPLM/SPLA openly favoring the goal of separation, while the mainstream movement of John Garang remains dedicated to the principle of a restructured, secular, democratic, decentralized, but still united Sudan. While the movement has until recently been unanimous on that principle and has been successful in winning support for its unionist stand, especially inside the country and in Africa, the objective of liberating the whole country and establishing a new Sudan appears to many observers as unrealistic, especially in the short run. The question in the minds of these observers is whether the massive loss of human lives, the destruction of property, and the drag on development are worth that long-term vision. Naturally, the split within the movement has complicated the negotiating picture—without, it should be emphasized, in any way blunting the southern quest for justice and equality.

Differences in the north also cloud the prospects for solutions. The Islamic government is opposed by nearly all the major political forces, not explicitly because of its Islamic agenda, but because it is a military rule. For most of

THE SUDANESE CONFLICT, BY VIRTUE OF ITS STRUCTURE, IS A REFLECTION OF REGIONAL AND INTERNATIONAL IDENTITIES AND THEIR INTERESTS.

those in opposition, especially among the self-styled “modern forces,” their rejection of military rule goes hand in hand with an equal rejection of the prospects of yet another return to the traditional rule of the sectarian political parties. The resulting vacuum, combined with the determination of the regime and its religiously committed supporters to ensure its security, tends to promote passivity among the people. Although recent demonstrations by students and other elements of civil society in several towns may indicate the potential explosiveness of the situation, the likelihood of the type of popular uprising that has been pivotal in forcing military regimes out of power in the past has so far seemed remote.

As though all this were not enough, the involvement of regional and international actors, linking with internal factions in the racial, ethnic, and religious identity map of the Sudan, not only deepens the cleavages, but also raises the capacity of the nation for self-destruction and reduces the prospects for a negotiated settlement. In support of the revolution, Iran is now backing the government by financing the supply of Chinese weapons and is otherwise heavily involved in the country to balance the international isolation of the regime. Clearly the only basis for Iran’s involvement is promoting its strategic Islamic agenda. Libya and Iraq have also supported the regime in varying degrees, and the basis for that support has been Arabism.

Agreement on the Issues

If the two sides can seriously be brought to a negotiating table, there is little disagreement on the issues to be hammered out: the system of government, in particular the form of democracy suitable for the country; the relationship between religion and the state; the definition of national identity, particularly as it relates to Arabism, Africanism, Islam, Christianity, and indigenous belief systems; and principles of foreign policy, especially with respect to nations linked to the diverse elements of the internal configuration.

There is even a degree of consensus on the broad lines of action that need to be taken on some of these issues. For instance, no one seriously questions that the peripheral regions of the country in the west, the east, the far north, and particularly the south, have suffered from gross inequities in the sharing of power and the distribution of wealth, services, jobs, and programs of social and economic development. It is therefore widely recognized that these regions should receive remedial preferences in any future arrangements.

It is also widely accepted that the country is too large and too diverse to be governed through a centralized system and that decentralization in the form of regionalism, federalism, or similar arrangements would be more suitable.

What is lacking is the political will to act on these principles. And, in this, the issue of religion and its implications for the distribution of power and national wealth remains the most serious obstacle to the resolution of the conflict.

Prospects for Peace

Any promising initiative for peace must begin with the recognition of the two parallel visions that have evolved through history in the north and the south. Both parties must recognize that each represents legitimate concerns that are broadly shared within their identity groups, despite internal differences on matters of detail, tactics, or strategy. The SPLM/SPLA should recognize that the Arab-Islamic agenda is not the exclusive initiative of the present government, but a broad-based aspiration that has persisted in different forms and degrees for decades, if not centuries. Northerners, in particular the current regime, should also recognize that the south, as represented by SPLM/SPLA, cannot accept the framework of an Islamic state that is bound to relegate them to a subordinate status, however tolerant and accommodating that state may be.

These positions will have to be negotiated at a constitutional conference. Meanwhile, the immediate needs of the country, in particular the war-stricken regions, must be addressed. Special interim arrangements can help reduce the violence, allow people to resume normal life, speed the delivery of urgently needed relief, help displaced southerners return home, and initiate programs for rehabilitation, reconstruction, and development. Arranging for cross-border delivery of relief as well as trade and access to international cooperation could also foster confidence between the principal parties to the conflict.

For these interim arrangements to be made, the parties would have to agree to some sort of administrative framework. Strictly speaking, that would mean a cease-fire and freezing the military situation. But with good will, some adjustment of the troops’ location could be negotiated to make arrangements more realistic and manageable.

A crucial step in the peace process would be to try to resolve the factionalism within north and south. Since the religious agenda of the government is not too different from that of the sectarian political parties, except for their rivalry over power and the form of government, it should be possible for the parties to accommodate each other, especially since they need each other in the long run. None can enjoy the undivided support of the public without the other. It may indeed be desirable to bring these parties together with the government as a first step in the negotiating process. The same is true of the different factions within the SPLM/SPLA. Certainly, reducing the parties to two clusters would make negotiations more manageable.

Once factions in both north and south are reconciled, the next step is for both sides to agree on the principles of governance. Efforts to stop the fighting, delineate the borders of effective control, and move on with the essentials of life should allow for the gradual evolution of a functional framework for at least starting a process that could address the constitutional and legal arrangements for the ultimate solution to the nation's problems.

Whatever framework evolves, its main task will be to redefine the national identity to remove the monolithic symbols that divide, unravel the diversities that underlie the present formulation, and design a system of equitable mutual accommodation. The Sudanese need to see themselves first and foremost as Sudanese rather than as Arabs, Africans, Muslims, Christians, or adherents of particular belief systems. They also need to give substantive content to what it means to be Sudanese—including coming to grips with such long-term issues as the form and content of the educational system, the medium of public information, cultural programs, and the overall orientation of national self-perception. While this goal can be fully realized only over many years, agreement on an appropriate federal constitutional and legal framework, supplemented with symbolic gestures by leaders, can go a long way in advancing the process. With that internal common ground and self assurance, the Sudanese could then move outside their country to link creatively and constructively their diversified symbols of identity with their kith and kin, friends and allies in Africa, the Arab world, and beyond.

It may be that the leaders of various factions will, after all, conclude that the gulf between north and south is unbridgeable and that even a decentralized unity would not permit the equal treatment and nondiscrimination necessary for the Sudanese people to live peaceably as a nation. If so, an alternative solution might be a looser arrangement along the lines of a confederal constitutional system.

Beyond such a loose concept of unity, the only option is partition, with shared services and economic cooperation. This could be mutually agreed upon, for it is possible the parties may decide that the prospects for a united country are simply not realistic and that partition may be the least destructive option. Partition will not necessarily resolve conflicts within the north and the south. Indeed, it may well aggravate them in the short run. But the differences within the north and the south are certainly less in scale than the racial, cultural, and religious cleavages that divide the north from the south. Indeed, they are not much different from the ethnic differences that exist in any African country. Without the complicating factor of

north-south politics and the external manipulation of internal differences, the challenge would be mostly a matter of good governance that would give practical political consideration to ethnic diversity while recognizing the legitimacy of the overall framework of national unity. This is in effect what is happening in most African countries where tribalism exists, but is largely submerged or managed as a matter of practical politics.

Perhaps the experience of looking realistically at these options and their repercussions will alert the Sudanese to the potential dangers of the situation and challenge them to search more creatively and constructively for just and lasting solutions within the framework of unity or to accept that divorce, undesirable and often bitter as it is, may be better than an unsuitable marriage and that friendly relations can indeed survive the divorce. After all, Eritrea and Ethiopia are a good example of what is becoming increasingly an acceptable alternative to pernicious crippling civil wars.

Involving the International Community

The Sudanese establishment is given to saying that the solution to national problems must be worked out by the Sudanese themselves without foreign involvement. Of course that is only a slogan, because Sudanese on all sides are busy lobbying the international community to their point of view, and it is valid only to the extent that the final solution must be one the Sudanese themselves accept, if it is to be sustained. But the Sudanese certainly need the help of the international community to achieve their national objective.

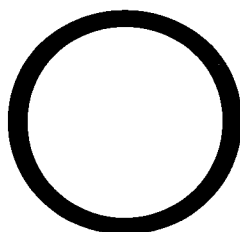
Despite the reluctant attitude of the international community over Bosnia and the current ambivalence in the United States about involvement in Somalia, the globally dominant forces of democracy and the market economy, the rising profile of the human rights constituency, and the watchful eye of the international media cannot in the long run allow the world to stand by and watch countries brutalize themselves in genocidal wars without some form of involvement—humanitarian, diplomatic, political, or military. What is important is that the international community could help the Sudanese in their search for domestic solutions in many ways short of military intervention. The sooner the preventive efforts begin, the less costly international involvement will be in the long run.

The Sudanese conflict, by virtue of its structure, is a reflection of regional and international identities and their interests. It is indeed an irony of history that the civil war in the Sudan should be the result of what once seemed the country's greatest promise—as a microcosm of Africa and the bridge or crossroads between the continent and the Middle East. But what began as a promise has torn the country apart, brutalized innocent civilians, retarded development, and threatened the state with disintegration and collapse. The urgent need now is to end the war. To do that and then to begin to move toward peaceful coexistence, the Sudanese people, north and south, desperately need the help of the international community. That hauntingly beautiful web of regional and global identities is strangling the country to death. ■



CABLE TELEVISION

ROBERT
CRANDALL



ne can only hope that Vice President Albert Gore does a better job reinventing government than he did reinventing regulation. One of Gore's last big accomplishments as a senator was passing the 1992 Cable TV Consumer Protection and Competition Act, which reimposed rate regulation of cable television—just eight years after the industry was deregulated by Congress. Gore and his colleagues, tired of consumer complaints about the rapacity of the cable operators who had been freed from municipal regulation by the 1984 Cable Act, passed legislation that marked the first attempt to reverse course in the deregulation campaign that began in the mid-1970s.

Starting with the Ford presidency and continuing through every administration until that of George Bush, federal policymakers had sought to deregulate major industries—airlines, trucking, air cargo, railroads, natural gas production and pipelines, telephone equipment, banking, telephone communications, and cable television. The results had been generally favorable, with one big exception—the partial deregulation of the thrift industry that had invited unwarranted risk-taking and even fraud by banks and savings and loans.

By 1992 the deregulation of cable was threatening to go into the “failure” column too. The biggest problem

was that after rates were deregulated in December 1986, monthly rates increased by nearly three times the general inflation rate. With cable operators being painted as insensitive, greedy monopolists, congressional action was inevitable and relatively quick in coming. A bill to regulate cable television was introduced in 1990, but Congress did not enact it until 1992.

The result is an extremely complex scheme of federal and municipal regulation. In the extreme, the 1992 law could even lead to cost-of-service regulation for each of the country's 11,000 systems. Given the industry's rapid pace of technical change, the widely differentiated product offered, and the difficulty of separating costs of different services, such regulation would surely be a nightmare. At the very least, the law requires that the Federal Communications Commission set regulatory “benchmarks” for basic cable rates—still no mean feat in this complicated industry.

But that is not the worst of the news. Within less than a year, cable reregulation has become almost as unpopular as deregulation. Rates may even have risen as the result of the new FCC regulations that implement the 1992 law. A recent FCC survey found that 31 percent of the subscribers to systems owned by 14 national cable companies actually saw their rates rise as the result of the new FCC rules. Because the systems owned by 11 other companies so revamped their pricing strategies in response to FCC regulation, the FCC



REINVENTING REGULATION

staff has not yet been able to determine whether rates have risen or fallen for these companies.

While the vice president has remained surprisingly silent about the effect of his handiwork, his erstwhile colleagues in Congress are now beginning to pass the blame to the FCC. The problem, however, is with the rate reregulation, not with those entrusted with implementing it.

A Primer on Cable Television

Cable television was not always perceived as an evil monopoly. In its early years, cable provided a competitive threat to government-franchised monopolists—the television broadcasters. The FCC, with the prodding of Congress, had so restricted television licenses to the electromagnetic spectrum that enormous monopoly rents were earned by the lucky and influential few who obtained these grants of privilege.

In many parts of the country, households had access to only two or three television stations because of the FCC's explicit decision to limit competition in this new medium. A third or fourth might be over the next hill or mountain, but inaccessible as a result. Cable television was the invention of entrepreneurs who sensed that households might pay something to get these additional stations or to improve their reception on the two or three local ones. In the 1960s cable was simply a "retransmission" medium.

Very soon cable operators discovered that they could import more signals from more distant markets, and some even mused about the possibilities of offering "pay" movies or sports channels. Clearly these discoveries were a threat to the local broadcast monopolists, who quickly used their political clout in Washington to get further protection. In the late 1960s the FCC moved aggressively to limit importing distant signals and leapfrogging over nearer signals to import better "superstations." It required that scarce channel capacity be allocated to local-origination channels that few used and no one watched, and even prohibited most forms of pay cable. And it severely limited the programming that could be offered on "pay" channels, such as HBO, Showtime, or Disney in today's market.

It took more than a decade, but these draconian regulations were eventually lifted by the FCC or invalidated by the courts. By 1980 cable was unleashed as a major competitor of broadcast television, offering pay services, superstations, and many new cable networks. The only remaining obstacle was municipal regulation—which had arguably limited cable rate increases and certainly padded the pockets of local politicians and their friends. In 1984 Congress eliminated this obstacle by banning municipal rate regulation of cable systems that faced effective competition.

Cable systems were thus free to begin to grow

Robert Crandall is a senior fellow in the Brookings Economic Studies program. He is completing Cable Television since Deregulation, a book he is coauthoring with Harold Furchtgott-Roth.

without much government interference. Propelled by declining electronics prices and the end of government prohibitions on signal carriage, cable operators vastly expanded their channel capacity. In 1980 the median system had fewer than 12 channels. Today all but a few subscribers have access to 30 or more, and one-third of subscribers have access to more than 54 channels.

Cable was also extended into the large cities from which it had been essentially excluded by the earlier FCC signal-carriage rules. In 1980 fewer than 25 percent of households had cable service. Today nearly two-thirds subscribe and more than 95 percent have a distribution cable passing their home. Cable is essentially ubiquitous.

It is far from clear that coaxial cable is or will be the best medium for delivering video signals to residences. Terrestrial radio systems (perhaps in a cellular format), broadcast satellites, or even fiber-optics lines might be better. The market will have to separate the winners from the losers unless government intervenes. Unfortunately, the fiber-optics alternative is already hamstrung by the 1984 Cable Act, which not only freed cable companies from rate regulation but banned local telephone companies from offering “cable television” service in their franchised areas, surely a bad combination of policies.

Fortunately, the courts and the FCC have already moved to rectify Congress’s penchant for creating monopoly power and then complaining about the subsequent abuse of the public interest by its beneficiaries. In 1991 the Bush FCC decided to allow telephone companies to offer “video dial tone” over their networks. This common carrier distribution service would allow third parties—for example, television networks, film companies, sports leagues, General Motors, or Ross Perot—to distribute television programming. In the FCC’s view, the service would not violate the 1984 law because telephone companies would simply be in the transmission business and would not control the programming choices as cable operators do.

The courts have made a second, more fundamental attack on the 1984 Cable Act’s prohibition of telephone company entry into cable television. Bell Atlantic, a regional telephone holding company, argued in federal court that the prohibition violates the First Amendment, and a U.S. District Court has agreed. If the decision is upheld on appeal, it may start an assault on a variety of government intrusions into the regulation of the media, surely a signal victory for civil libertarians.

As the telephone companies now ponder entry into some form of video distribution, they confront an array of technological choices—and the chance to be serious competitors. Advances in digital signal compression technology may allow them to offer some video service, probably pay-per-view, through ordinary copper wires, thus relieving them of the necessity of extending fiber optics to every home at perhaps \$1,500 per subscriber. Of course, variants of the new technology will also enable cable companies to expand their service to 400 or 500 channels and new satellite services to provide 100 channels or more to subscribers who purchase a small dish to receive them. Two direct broadcast satellite ser-

vices are scheduled to begin service early this year.

Home video watchers, it seems, are in for some technological fireworks and for vastly increased competition despite Congress’s continuing attempts to protect monopoly in the “public interest.” Even video stores are in trouble.

The Dreary Mechanics of Regulation

Swimming fiercely against the tide of this exciting and brave new world of competition, the FCC has just hired hundreds of new staff to implement the 1992 cable law. As entrepreneurs and skilled engineers go about the business of inventing new distribution technologies, bureaucrats are busy reinventing government regulation. It is no mean task, for the new law requires the FCC to set rates for “basic” service at “competitive” levels. But how are they to know what competitive levels *are* if Congress keeps blocking new entry into video services?

The 1992 law requires the FCC to set benchmarks for basic rates—rates for a complement of local broadcast signals and various low-value services—in terms of rates observed in recent years in markets in which there are two or more cable companies or a thriving multichannel video competitor (such as a microwave multipoint distribution service), or in which cable service is taken by fewer than 30 percent of households. That approach would appear reasonable—better than flipping a coin, at least. But there is simply no way to know whether these rates are those that would emerge from a competitive market in equilibrium.

The problem with the law’s fundamental approach to a regulatory benchmark is that cable companies may have often been *below* these benchmark rates for a variety of reasons. They might have been building a subscriber base by offering low initial prices, surely not an antisocial activity. Or they may have priced basic service low while charging high rates for set-top converters, remote controls, additional connections, or enhanced basic service. Because the new rules prohibit many of these practices, cable operators have re-tied their basic service and often have *raised* rates to permissible levels set by the FCC.

Not surprisingly, many of the congressional promoters of cable reregulation have now cried foul. They want to force the FCC to reconsider its initial rules, suppressing rates so that voters will think that Congress has delivered them something.

The basic service rates are only part of the complex web of regulations required by the 1992 law. The FCC must also establish rules for rates charged by cable networks owned in part or in whole by cable television companies. Most such networks are indeed owned by consortia of cable companies who have struggled to get more and more programming to feed their expanding number of channels. In addition, the FCC is supposed to set rules on “horizontal” integration of cable—the number of cable systems that a single entity or set of related entities may own. Both rule requirements are supposed to reduce the “market power” of cable companies in dealing with programmers, though it is far from clear how such power actually affects programming outcomes.

The Future of Reinventing Regulation

The initial troubles of the reregulation process are little more than the comic relief sometimes inadvertently provided from Washington. The danger in cable reregulation lurks elsewhere. First, there is some small risk that Congress will pressure the FCC into so depressing the benchmark for basic services that cable operators will begin to seek refuge in the provisions of the 1992 law that allow for cost-of-service ratemaking.

If the FCC becomes enmeshed in trying to determine the "cost" of basic service, it will sink hopelessly into the regulatory quagmire. Given the technological change that has swept the industry, how will the FCC determine the appropriate value of the cable system's assets for ratemaking purposes? And how will the share of these assets devoted to "basic" programming be determined, given that the same cable and headend equipment carries *all* services? If only one-third of cable systems opt for this variant of regulation, the FCC or municipal regulatory authorities will have to conduct more than 3,500 separate evidentiary proceedings to disentangle these costs, establish allowed rates of return, and set forward-looking subscriber rates. Surely this is not the way to reinvent regulation.

Second, Congress is not going to be content to regulate just the rates of basic cable service as the number of channels explodes to several hundred. The typical cable offering is about to become very complicated, local broadcast signals will become obsolete, and federal regulation of basic service will appear irrelevant. If competition does not develop soon, Congress may be tempted to extend regulation to the pricing of new services, such as movies on demand, interactive programming, or new speciality shopping channels.

If the average cable bill continues to rise as consumers eagerly scan through 400 channels, will Congress be tempted to extend regulation to the rates on each *new* program service also? President Clinton has surely not emerged as a champion of market forces and probably would not veto such a law, as President Bush surely would have. The effect on innovation would be chilling, much as it was in the early days of pay television when regulators decided that two-year-old movies—but not twenty-year-old ones—were appropriate for pay television.

Finally, since Congress already regulates the copyright royalty payments to be made for cable importation of distant *broadcast* signals, it might reason that it could easily extend its reach to cable networks, regulating not only the rates charged by cable systems to subscribers but the payments made to cable networks for the programming.

Invention, not Regulatory Reinvention

The best way out of the current mess is to encourage competition and wait for its effects to be felt in the marketplace. A good start would be for Congress to repeal the prohibition on telephone provision of cable television if the states implement price-cap regulation in place of rate-of-return regulation for local telephone companies. Alternatively, the Clinton administration could have supported the lower court's position in the Bell Atlantic case, declaring the 1984 telephone company prohibition unconstitutional, but it has chosen to appeal it instead.

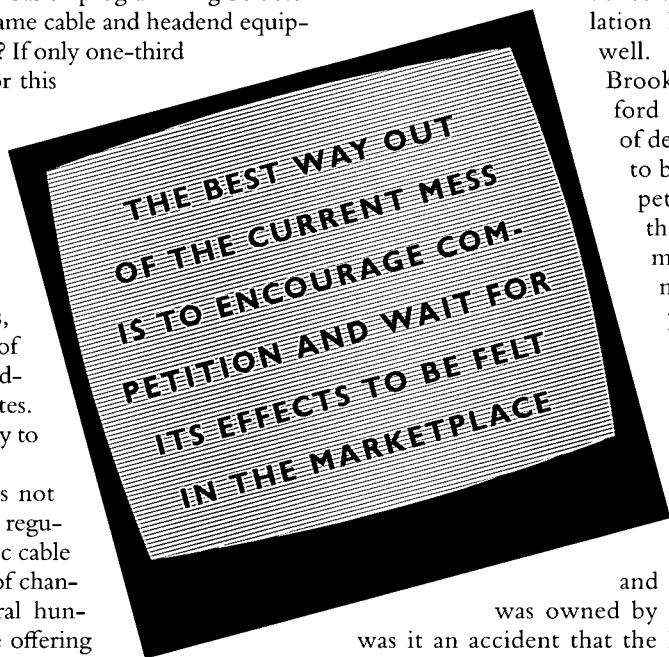
Thirty years after deregulation began with the investigation into New York Stock Exchange cartel agreements, we now have an impressive body of evidence that shows that deregulation has served consumers well. Indeed, according to Brookings economist Clifford Winston, the benefits of deregulation have tended to be *underestimated*. Competition has proved to be the best regulator in most markets because government regulators cannot possibly get the prices right and are too often subject to political pressure. For example, it was no accident that Austin, Texas, had only two television stations in the 1950s

and 1960s, one of which

was owned by Lyndon Johnson. Nor was it an accident that the Reagan administration leaned over backwards to prevent the abolition of truly foolish television network program-ownership rules sought by the movie companies after the chairman of a major motion picture company paid a social visit to the former actor, President Reagan.

The media are too important to be sacrificed up as guinea pigs for experiments in reinventing regulation. Of course, one might make much the same argument about health care, but that is for others to evaluate. For the moment, Congress should not be expected to muster the courage to admit that it was wrong last year. The risk is that Congress might pile on new regulatory requirements. For the present, it should stand aside while the FCC struggles to implement a bad law.

Congress could step up and admit its error of 1984 in banning telephone companies from cable television. If not, the courts may invalidate this ban on competition anyway. Finally, Congress should avoid any further actions to limit competition in this dynamic market, such as funding a new "telecommunications infrastructure" program or mandating regulatory cross subsidies to pay for billions of dollars of fiber-optics highways and off-ramps. The competition for the video customer will be sufficient to induce a great deal of investment in infrastructure. ■



CABLE TELEVISION

RICHARD
KLINGLER

After a hesitant start, America's courts appear ready to grapple with how the First Amendment should apply to the emerging "information age" technologies—cable television, satellites, electronic publishing, and telephone services. These fast-developing technologies increasingly provide information that Americans value as "speech"—and are even displacing newspapers in the types of speech that the First Amendment most protects. But they remain subject, as newspapers are not, to extensive and growing government regulation.

The Courts Enter the Fray

In January the Supreme Court will hear oral argument in *Turner Broadcasting System v. FCC*, a First Amendment challenge to the 1992 Cable Act's requirements that cable operators carry the signals of certain local public and commercial television stations.

Congressional proponents of these "must-carry" provisions of the act argued that cable systems must be prevented from using their market power to harm

competitors, especially small broadcast stations, and that consumers often have to rely on cable systems to deliver stations' broadcast signals. Opponents argued that the must-carry provisions are restrictions on speech that would be intolerable if applied to newspapers. President Bush cited this concern when he vetoed the Cable Act (the only Bush veto Congress overrode), and Congress set up a special judicial review mechanism to resolve the constitutionality of the must-carry provisions. *Turner* is the result.

Even if the Supreme Court somehow ducks the larger issues in *Turner*, other cases wait in the wings. In August a federal trial court held that the First Amendment prevents enforcement of a federal statute that limits entry of local telephone companies into the cable television industry. Soon thereafter another federal judge upheld the rate regulation provisions of the 1992 Cable Act against constitutional attack while striking down others on First Amendment grounds.

These cases will turn largely on their particular facts, but the choice of general principles will more broadly affect these industries. That choice depends, in part, on how the new technologies implicate the First Amendment.



THE FIRST AMENDMENT

The First Amendment Interest

Courts have traditionally given newspapers and publishers of magazines and books the highest degree of First Amendment protection. Government may regulate publishers or restrict their “speech” only for the most compelling reasons, and then only in the most limited fashion (though publishers are subject to generally applicable restrictions such as income taxes or antitrust laws).

Radio and television broadcasters, in contrast, have less First Amendment protection. The government may not only determine who can operate a broadcasting station, but also impose certain restrictions on the content or balance of the broadcast information, even extending to broadcasters’ role in elections. The courts have reasoned that because the electromagnetic spectrum allocated to broadcasters to transmit their signals is a limited resource, the government has considerable latitude in shaping the use of that spectrum.

Until the late 1970s the developing information technologies raised few First Amendment issues. Cable television initially functioned mostly to retransmit broadcast television signals to homes that could not receive them. Telephone companies largely confined themselves to carrying their customers’ messages. Satellite broadcasting barely existed. The personal computer revolution had not yet moved beyond engineers’ garages.

Even so, courts in the mid-1970s refined two First Amendment principles that would prove quite important to the developing technologies. In a case involving the *Miami Herald*, the Supreme Court invalidated a Florida statute that required newspapers to publish replies of political candidates to certain attacks or editorials by the newspaper. The Court reasoned that the statute punished a particular category of speech and also indicated that the First Amendment protects a newspaper’s “editorial discretion” in choosing what to publish. In another case, the Court held that a New Hampshire citizen could not be forced to display the state motto—“Live Free or Die”—on his license plate because the First Amendment prohibits the government from compelling a citizen to publish or endorse a particular message.

These principles, along with traditional First Amendment protections, assumed growing importance as new technologies increasingly performed many of the functions of traditional media such as newspapers and broadcasters. By the early 1980s ca-

ble television systems had become in many communities a principal source of video programming—and carried both television station signals and other news, information, and arts channels. Owners of cable systems increasingly produced as well as transmitted programming. Satellite broadcasting, especially to the home dish market, also provided a range of information and entertainment. With increasing use of personal computers in businesses and homes, electronic publishing and distribution boomed. And after the break-up of the Bell System, telephone companies sought to provide complex services built around information transmission.

As these new technologies began to resemble and displace traditional media, their claims to First Amendment protection increased. A cable system operator, for example, acts in many respects like a newspaper publisher. That publisher has a variety of sources for filling the newspaper’s pages: the newspaper’s own staff, syndicates or news services such as The Associated Press, and advertisers.

Similarly, the cable operator can fill the increasing number of cable channels by producing programming, buying programming, or selling space on the cable system to advertisers or others. In this manner, cable operators have a strong claim to being part of the “press” protected by the First Amendment. In addition, the publisher and operator in determining the content of their respective information products exercise similar “editorial discretion.”

Regulation of Cable Systems

Two types of regulation of cable systems have given rise to First Amendment claims. The first type involves “exclusive franchises” granted by cities to local cable television systems. Cable systems are franchised, or licensed, by local governments that control the access to city property necessary to build and operate a cable system. Many franchises were granted only to a single cable system. Would-be competitor cable companies claimed that the exclusive franchise is like a flat prohibition on additional speakers and that a local government has no more right to bar a second cable system than it does to bar a second city newspaper.

In 1986 the Supreme Court considered and then sidestepped these issues in a First Amendment case brought by a cable company against a city’s exclusive franchising practice. The court noted that cable systems appeared to perform functions that gave them a First Amendment interest, but declined to decide whether that interest should be evaluated under the standards applicable to newspapers, those applicable to broadcasting, or some other set of standards. The case

Richard Klingler, a guest scholar in the Brookings Economic Studies program, is at work on Regulating the Information Age Industries: Competition and Its Consequences. On behalf of broadcasters, he has in court defended the constitutionality of various statutes, including that at issue in Turner.

was returned to the trial court so that a greater factual record could be developed.

First Amendment questions also arise from requirements that cable systems set aside channels for particular types of programs or programmers. For example, federal law requires cable systems to devote certain channels to programming for educational and governmental purposes and to leave other channels to programmers not affiliated with the cable system. As noted, *Turner* involves one type of this requirement.

Cable operators, in their current court challenges, not only claim the status of newspapers, but also invoke the First Amendment principles developed by the courts in the 1970s. Like the New Hampshire driver, they want to be free from “compelled” speech in the form of having to carry channels or broadcasts not of their own choosing. And, like the *Miami Herald*, they claim that the government has impermissibly interfered with their “editorial discretion.” Other information providers, such as satellite broadcasters and telephone companies, whether providing information that they select or carrying others’ messages, have available to them similar claims in different contexts.

As the courts address these claims over the next several years, identifying a protected “speech interest” will be only half the problem. Equally important, and far less settled, is how to analyze the government’s actions even if they do affect that speech interest.

Three broad strategies for analyzing this issue exist. The first is that traditionally applied to television and radio broadcasters; the second, that applied to economic regulation; and the third, that applied to newspapers and individual speakers. The approaches are not wholly exclusive, and courts could adopt nearly innumerable variations and combinations of them. But how the courts choose among them will have dramatic consequences for the range of permissible governmental regulation and for the types and sources of information available to the public.

The Broadcasting Strategy

One widely touted approach is to analogize the new information technologies to television and radio broadcasting and to invoke something akin to the “spectrum scarcity” of broadcasting to justify broad forms of government regulation.

For example, cable television is arguably a “bottle-neck” monopoly because alternative forms of delivering video signals are rarely practicable, and thus a cable television system presents a limited range of available channel capacity in a manner similar to the limited broadcasting spectrum. The local telephone company’s monopoly over wire service to the home may be analyzed similarly. And many new technologies, including satellite broadcasting and various “wireless” transmission technologies, in fact use the electromagnetic spectrum to deliver information.

This approach would allow widespread regulation of who may deliver information and even, in certain circumstances, of the content of the transmitted messages. It would support, for example, a revived “fair-

ness doctrine”—a rule once imposed by the Federal Communications Commission, and now the subject of renewed congressional interest—that required broadcasters to present “balanced” coverage of important issues of the day. The rationale also underlay the Supreme Court’s approval several years ago of minority broadcasting ownership preferences to support “diversity” of broadcast views.

The difficulties with this approach are twofold. First, the intellectual foundations of the “scarcity” rationale itself are weak. In economic terms, the spectrum is no more “scarce” than any other good. And consumers’ ability to receive information from video tapes, cable programmers, satellite programmers, and personal electronic communications—not to mention traditional print sources—makes it difficult to maintain that the government must regulate television and radio to ensure that citizens receive a suitable mix of information.

Second, the scarcity rationale threatens to allow extensive regulation of nearly *all* information sources. If the government could control the provision and content of material transmitted over cable and telephone wires as well as through developing technologies employing the electromagnetic spectrum, there would be little that it could not regulate.

On the other hand, disavowing important elements of the scarcity rationale may prompt a revolution in the regulation of broadcast and radio. That would hardly be all bad. But it also portends enormous changes in the allocation of broadcast licenses and the oversight of broadcasters. The traditional ways of doing business may be swept aside in an important industry far sooner than is generally anticipated.

Economic Regulation

Another strategy is to distinguish between regulation designed to curb competitive abuses and regulation undertaken for other purposes. Under this approach, courts would uphold regulations proven to address the types of market power abuses currently remedied by the antitrust laws.

This approach would rely by analogy on several Supreme Court cases that have upheld particular applications of the antitrust laws to newspapers. In a variety of contexts, the Court has also indicated that the antitrust laws further First Amendment values by fostering competing sources of information.

This second strategy would allow the government considerable latitude to regulate certain competitive practices, but would bar regulation designed to affect the content of the transmitted message or to favor one class of speakers over another for reasons unrelated to competition. This approach would find favor with those who believe that the new information industries should have many of the protections of the print media, but not with those who believe that the public interest requires government oversight of the control and nature of information.

A definitional problem complicates this strategy. As experience in this area of regulation repeatedly indicates, many groups simply recast special pleading as

a demand to be free from “anticompetitive” practices. This strategy would require active judicial oversight to ensure that legislators did not invoke competitive rationales to justify preferences for favored groups or aggressively regulate groups whose messages were out of favor. Courts would also have to ensure that regulated entities were left with ample opportunities to communicate.

The Newspaper Analogy

The final approach would extend the highest level of First Amendment protection—that now accorded to newspapers—to the new information technologies. Such protection would permit government to regulate these industries only in limited circumstances and for the most compelling and clearly indicated reasons. Any regulation of the content of the information transmitted would be prohibited, as would many regulations that singled out particular industries.

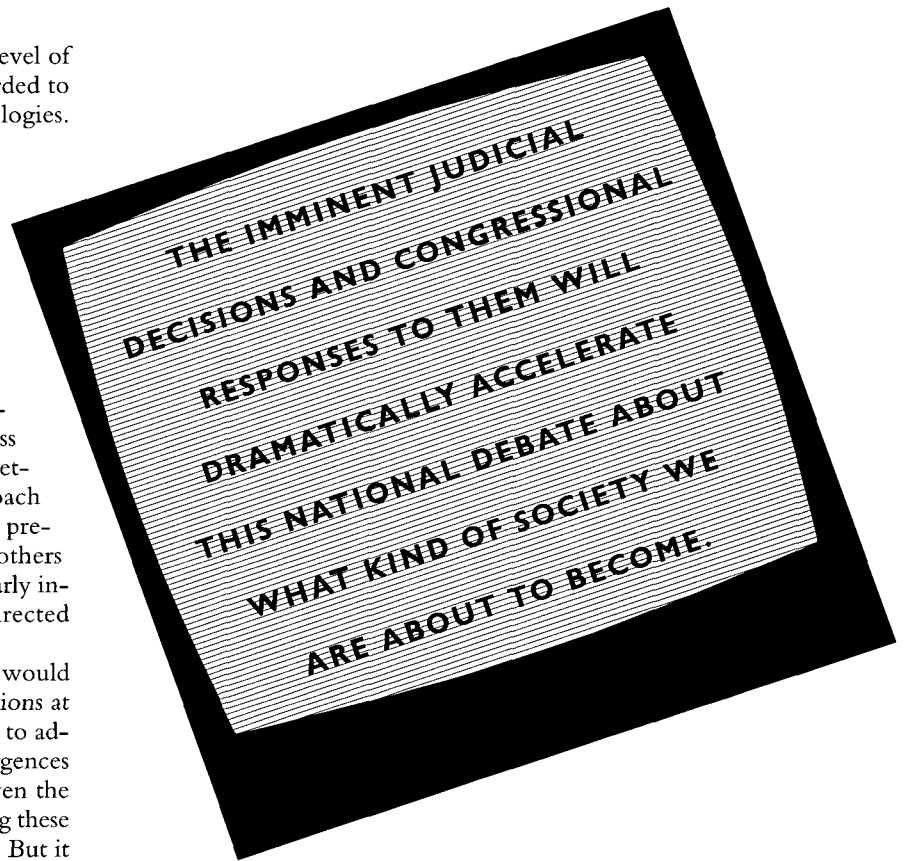
The greatest uncertainty in applying traditional First Amendment principles in this manner would be in determining whether Congress could craft rules designed to prevent anticompetitive conduct. Some advocates of this approach would limit permissible regulation to enforcing pre-existing and general antitrust laws, while others would allow greater leeway for regulations clearly independent of the messages conveyed and directed solely to preventing anticompetitive conduct.

The more extreme version of this strategy would bar government from a range of regulatory actions at precisely the time that regulators are struggling to address various mergers and technological convergences taking place in the information industries. Given the pervasiveness of government failure in regulating these industries, this result could have some benefits. But it could well overturn a range of rate and structural regulations—for example, even the various measures governing traditional telephone company activities—that are an integral and widely accepted element of government oversight.

Values

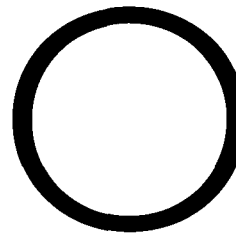
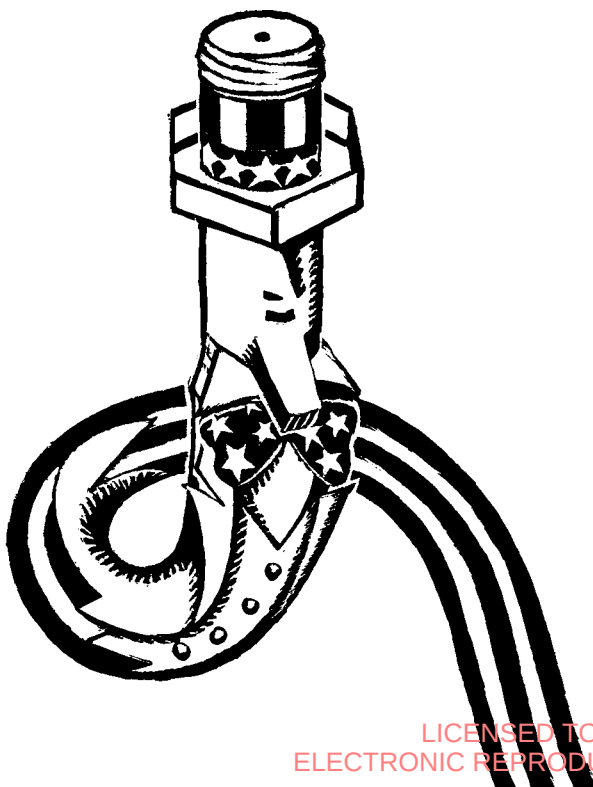
Years will pass before an accepted and general way of analyzing these First Amendment issues emerges. Although judges will determine many of these issues, in an important sense the issues are not distinctly legal.

The legal tradition provides support for each of the strategies outlined above, but in the end does little more than point us to relevant concerns. The rest is a matter of determining which values we as a society hold most dear and what vision of government we embrace. At a minimum, the First Amendment should remind us that if we are to err, we should do so by questioning the promise of government regulation and by allowing government fewer rather than greater powers. The imminent judicial decisions and congressional responses to them will dramatically accelerate this national debate about what kind of society we are about to become. ■





PROMOTING COMPETITION AND THE PUBLIC INTEREST



ver the past decade the telecommunications marketplace has experienced both explosive growth and intense industry pressure toward concentration. Through it all, Congress has tried to keep the market competitive to guarantee affordable and high-quality telecommunications for the American consumer.

Some observers of congressional efforts, whether to promote competition to AT&T in the long-distance market or, more recently, to promote competition in the cable industry, urge government to get out of the way of the largest companies so they can “compete” freely. This “let the marketplace decide” mentality, however, misses the point that the cable market has not and structurally cannot evolve into a competitive market without some regulatory structure to ensure that new competitors and entrants can compete freely.

The 1984 Cable Act

In 1984, when Congress deregulated the cable television industry and took the power to regulate rates out of the hands of local authorities, it expected that emerging competition in the video marketplace from wireless and satellite-based technologies would result in reasonable rates for cable service, improved customer services, and diversity in programming. The ensuing years were not to bear out that expectation.

With deregulation, the cable industry saw a period of unprecedented growth. Between 1984 and 1992 cable subscribership rose from 37 million to 57 million. The percentage of homes passed by a cable wire rose from 71 percent in 1984 to 97 percent in 1992. The number of programming services grew exponentially. Cable evolved from its roots as an antenna service to a video medium in its own right. Cable’s arrival as a full-fledged competitor changed the entire face of the video market and, with its second stream of income from subscriber revenues, fundamentally altered the economics of video programming distribution.

The price consumers paid for this transformation, however, was steep. In a series of studies, the General Accounting Office (GAO) documented that in the years following cable deregulation, rates for cable service and equipment increased at more than three times the rate of inflation. A 1990 Consumers’ Research study found that in areas where only one cable company existed, fewer channels were provided on average (33 as against 40) and the cost per channel was a third higher than in areas with competition.

The Wireless Cable Association reported that cable rates in 110 localities where microwave distribution systems existed were an average of 30 percent lower than in areas where the cable operator had an unchallenged monopoly. In 1990 a Department of Justice estimate confirmed what many consumers had long suspected, that up to half of basic rate increases since deregulation reflected monopoly power to charge above-competitive prices.

Cable industry customer service standards also failed to keep pace with the needs of a growing subscriber base. Growing customer service complaints underscored

the fact that, as local monopolies, cable operators had little incentive to provide customer service as good as that consumers had come to expect from local businesses or from regulated industries such as the telephone company and electric utilities.

Finally, cable operators who controlled both supply and distribution used their control of cable programming services to suppress the much-hoped-for competition from new wireless technologies such as satellite dishes or terrestrial relay systems. By obstructing or outright denying them access to programming, cable operators assured that no consumer would view these new technologies as viable alternatives.

The 1992 Cable Act

Passage of the 1992 Cable Act marked the realization that cable's competitors were not succeeding in their efforts to compete with the existing cable monopoly in 99 percent of the country. The primary purpose of the 1992 act, therefore, was to promote competition and, only in its absence, to regulate rates.

To encourage competition, the act required that programmers provide their product to other forms of video delivery in addition to cable, thus ensuring that satellite and wireless cable delivery systems would have access to programming, such as HBO, Showtime, and Discovery, that they had been denied in the past. Direct broadcast satellite competitors will be up and running within the next year, providing competition to cable operators across the country.

The Cable Act also abolished the exclusive franchise agreement, whereby local governments grant a single cable operator a monopoly and bar all competitors from offering cable services in the franchise area. These agreements, of course, are one big reason why almost 99 percent of Americans have only one choice of a cable operator today.

Both these provisions have successfully begun to limit anticompetitive practices in the cable industry.

Implementing the Cable Act

Over the past 10 months the FCC has issued many regulations implementing the Cable Act. Rules mandating equal access to programming by cable's competitors, re-ordering cable-broadcaster relations, imposing tough new customer service standards, and mandating equipment compatibility have all been enacted quickly, professionally, and without incident, largely assuring a fairer, more competitive cable marketplace in the years to come.

Unfortunately, the FCC rules implementing rate regulation have apparently allowed rate hikes to an extent that even cable operators never anticipated and that were clearly contrary to the intent of the act. However, the final chapter of the FCC's rate regulations has yet to be written. The first series of enforcement letters from the FCC should be going out as this article goes to press and will represent the beginning of their efforts to prevent violations and evasions.

Blueprint for the Future

What is often overlooked in the debate over regulation is that regulation means far more than controlling rates. In fact, the most important purpose of most regulation,

including the 1992 Cable Act, is to ensure that genuinely competitive markets exist and that the benefits of competition flow to the general public.

There have been many instances in which government regulation has opened up monopoly bottlenecks to increase competition, particularly in the field of telecommunications. Congress, the courts, and the FCC helped encourage competition in the long-distance marketplace through an antitrust case and a series of decisions designed to promote the viability of competitors to AT&T. In the mobile communications field, Congress and the FCC worked to structure a competitive market where none existed only 10 years ago. Spectrum sufficient for two competitors in each market was initially allocated to start up the cellular industry. More recently, spectrum for the new generation of mobile communications—Personal Communications Services—was allocated so that as many as seven operators will compete in a single market.

In its early days, the cable industry itself was a beneficiary of government efforts to foster competition. In 1976 Congress passed the compulsory license provision that enabled cable operators to transmit television programming easily and inexpensively. Furthermore, the FCC did not require cable operators to compensate broadcasters for retransmitting their signals, essentially allowing cable to carry broadcasters' lineups without compensation. In addition, Congress assisted the growing cable industry by forcing utility pole owners to give cable operators access to their poles—freeing cable operators from unreasonable demands by telephone companies and electric utilities.

Through considerable effort and persistence, balancing consumer protection and new competition, today we have two wires running down the street, a cable wire and a phone wire. We have, in addition, wireless delivery systems. Government regulation, not the free market, has guaranteed that these delivery systems are independent and stand ready to compete with each other to provide information and entertainment.

The blueprint for a competitive telecommunications marketplace must ensure multiple means of delivering information to the home and office. One company should not control both the phone and the cable wire running down the street. Two competing wires and the potential for a third wireless option ensure that service and technology entrepreneurs with new ideas will not be forced to pay a high toll or sell out to the owner of the wire.

The philosophy of fostering competition must also apply to the merger proposals between telephone company giants and cable operators that have grabbed headlines in recent months. Telephone companies have argued that their entry into the cable business as owners of programming would result in lower rates for consumers. That may be true, if they become competitors to existing cable monopolies. But it won't be true if they simply become a bigger cable monopoly by eliminating the competition.

Only through true competition, with the cable and telephone wires and additional wireless options serving as competing and independently-owned delivery systems, will the American public realize the promise and benefits of the Information Age. ■

*Edward J. Markey
is a Democratic
congressman from
Massachusetts.
He is Chairman
of the House
Subcommittee on
Telecommunications
and Finance.*



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

MARGARET M. BLAIR

CEO

PAY
WHY SUCH

A CONTENTIOUS ISSUE?

Margaret M. Blair is a research associate in the Brookings Economic Studies program.

She is the author of Ownership and Control:

What's at Stake in the Corporate Governance Debates? (Brookings, forthcoming).

OF THE MANY CONTROVERSIAL ISSUES SURROUNDING THE

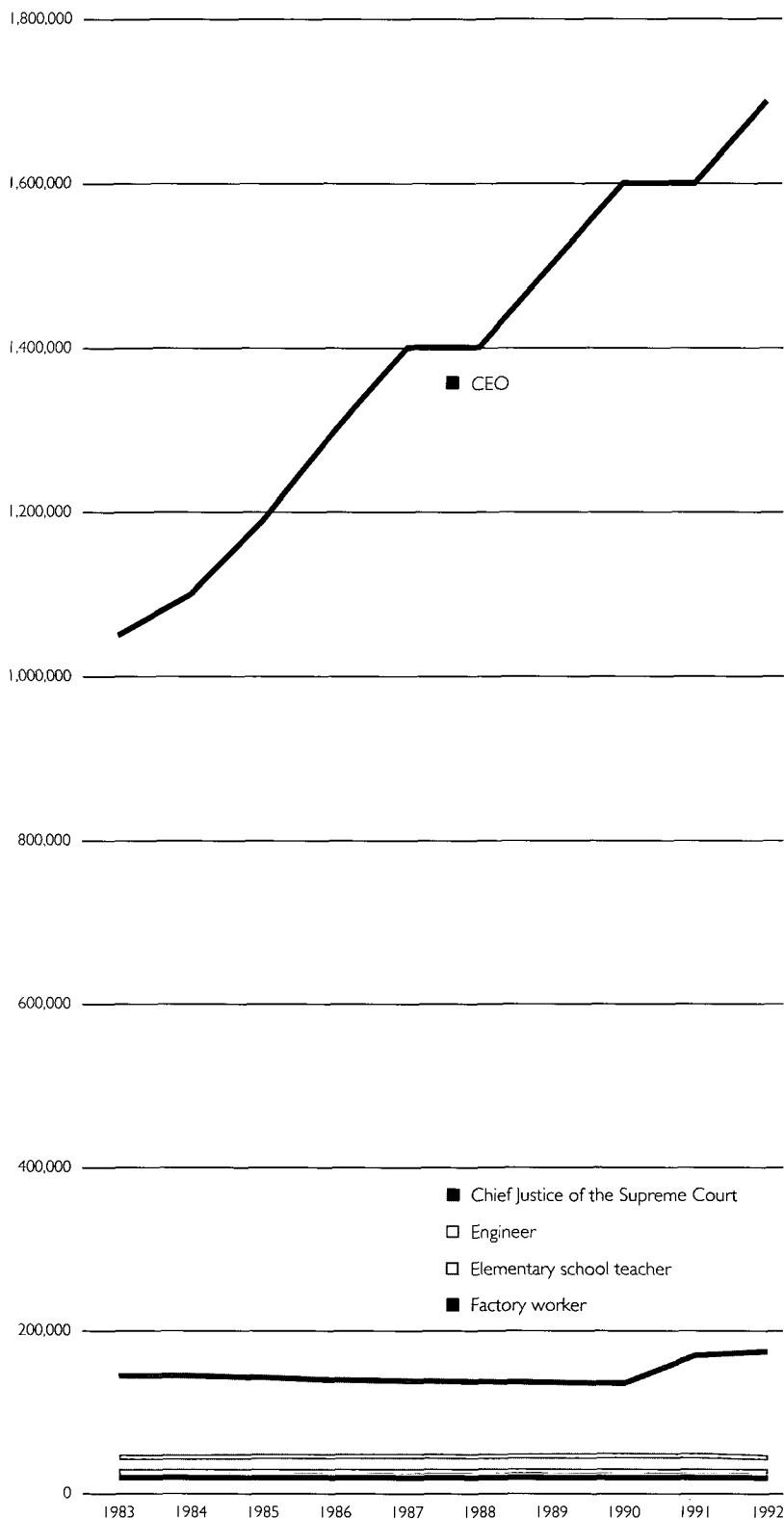
performance of U.S. corporations in recent years, executive compensation—how and how much top corporate executives are paid—has become one of the most visible and politically contentious. Every spring, the business press headlines the salaries, bonuses, and stock awards of the most highly paid chief executive officers, along with analyses of how well their companies did and much tongue clucking about whether they could possibly be worth that much. Numerous commissions and consultants have done studies in the past few years about how executives are paid and have produced dozens of recommendations about how compensation schemes should be reformed. In the fall of 1992, the Securities and Exchange Commission tightened its reporting requirements so that public companies must now provide more detail about how much their executives are paid and how pay packages are determined. And the budget bill passed by Congress and signed into law by President Clinton this summer provides tax penalties under certain circumstances for companies that pay their executives more than \$1 million a year.

WHY HAS THIS ISSUE GENERATED SO MUCH CONTROVERSY?

Clearly the answer has partly to do with the sheer size of executive pay packages. Before the mid-1980s, it was almost unheard of for an executive of a nonfinancial publicly traded company to be paid more than \$10 million in a single year, and even \$5 million years were rare. Lately, however, annual compensation packages of that scale have become commonplace. According to data assembled from *Business Week* magazine surveys, and covering about 250 companies a year, there have been at least 227 instances since 1987 in which a corporate executive made more than \$5 million in a given year, and 77 cases in which an executive made more than \$10 million. Total compensation topped \$20 million for 13 ex-

Figure 1. Comparative Median Pay Packages, 1983–92

1992 DOLLARS



Source: Data from *Business Week* and Bureau of Labor Statistics.

ecutives in 1992, with 3 exceeding \$60 million. There will undoubtedly be quite a few more gargantuan pay packages for 1993, since that is the last year before the tax penalties take effect.

But huge incomes, even such extraordinary ones, are not automatically lightning rods for resentment among Americans—many of whom, after all, regard billionaire Ross Perot as a populist and see nothing wrong with the idea of baseball players making several million dollars for a single season. What matters more is whether people believe that those who received the big paychecks earned them in some way. Thus both defenders and critics of the huge compensation packages awarded many corporate executives in recent years agree that it is important to separate the executive pay controversy into two parts. The part that typically arouses media attention relates to the levels of executive pay: are CEOs and other top executives paid “too much” in some sense? Too much relative to ordinary working people? Too much relative to other people of significant achievement or responsibility, such as senators, Supreme Court justices, cabinet members, leading physicians, lawyers, Nobel prize-winning physicists and authors, or university presidents? How about relative to entertainers, broadcast media stars, or sports stars? Too much relative to top executives of Japanese or European companies?

Figure 1 compares the median pay (in 1992 dollars) of CEOs in the *Business Week* survey with that of factory workers, school teachers, engineers, and the Chief Justice of the Supreme Court from 1983 through 1992. The pay gap, already large in 1983, widens dramatically over the years. In the early 1980s CEOs earned approximately 50 times what factory workers earned, 23 times what engineers earned, and 7 times what Supreme Court justices earned. In 1992 the pay differences had nearly doubled. Last year, the median CEO in the *Business Week* sample earned more than 94 times what factory workers earned, about 39 times what engineers earned, and more than 10 times what Supreme Court justices earned.

Comparable data on Japanese and German executives are scarce, and measurement problems plague any effort to gather them. But various writers on Japanese companies assert that top corporate executives in Japan are paid only about 20 to 30 times what factory workers make, which would imply that U.S. CEOs are paid something like 3 to 4 times as much as Japanese CEOs. Data on 50 Japanese companies in 1991, assembled by Towers Perin for *Business Week*, seem to confirm this. The median pay of CEOs of companies in this study was \$630,000 in 1991 (converting yen to dollars according to the official exchange rate that year), only about 39 percent of the median for CEOs in the *Business Week* sample that year.

Another study by John Abowd of Cornell and Michael Bognanno at Temple University compared the total compensation of the typical CEO of a medium-sized U.S. company to that of CEOs in other industrialized countries. Their data suggest that the CEO of a typical U.S. company with \$250 million in sales was paid about twice what his counterpart in Japan or Germany was paid throughout the 1980s and through at least 1992.

THE SECOND PART OF THE EXECUTIVE

compensation controversy has to do with how compensation is determined. Is it related to the performance of the company, and if so, what measures of performance are used? What measures of performance should be used? Many have argued that if pay were firmly tied to performance, the level of pay that results would cease being an issue. Who could complain about a CEO earning \$50 million as long as that CEO was helping to create wealth for many other people along the way? The widespread acceptance of this belief led lawmakers to make an exception in last summer's budget bill that imposes tax penalties on companies that pay "excessive" compensation. The penalties are not applied if the pay is shown to be directly tied to a quantifiable measure of the company's performance that is set in advance and approved by the shareholders.

But it is a myth that linking CEO pay to corporate performance will completely defuse the controversy over executive compensation. Executive pay is already tied strongly to performance. Most of the headline-making paychecks of the past few years are the result of changes made in the 1980s in the way executives are paid—changes that have tied pay packages much more tightly to the performance of the stock prices of the companies these executives managed.

Figure 2 breaks average CEO compensation into two parts, the first of which is the sum of salary and bonus. Salary is typically not linked tightly to any measure of performance, while bonuses vary depending on whether the company meets performance targets that may be based on internal measures of growth or rate of return or may be very vaguely defined. The salary-and-bonus part of executive compensation has grown over the past 12 years in real terms for the average CEO, but not nearly as much as the second part, "long-term compensation." From 1983 to 1992, long-term compensation grew from an average of 34 percent of total CEO compensation to an average of 68 percent. For pay packages that exceed \$5 million in a given year, the largest part is nearly always due to long-term compensation, which nearly always means stock options that the executive has exercised.

Stock options give the executive the right to buy the company's stock at a given "strike" price at some point in the future. Suppose a company whose stock was selling for \$50 in 1988 granted its CEO an option that year on 100,000 shares of company stock with a strike price of \$50 and an exercise date in 1993. If the stock price of the company rises to \$75 by the exercise date, the corporate executive can at that time exercise his option and realize an immediate gain of \$2.5 million. Of course, if the company's stock price is only \$45 by 1993, the executive receives no gain. But he also loses nothing since he had not actually purchased the stock when it was priced at \$50. Thus stock option awards give executives a virtually unlimited potential for gain if stock prices rise, but inflict no penalty if stock prices fall.

Under current accounting rules, option grants are not reported as a cost to a company, nor as income to the executive, in the year they are granted. Instead,



they are reported when they are exercised. At that time, the difference between the strike price and the exercise price is treated as taxable income to the executive, and is deductible for tax purposes to the company, even though the company still recognizes no associated expense on its income statement. These accounting rules are under review, but they have not yet been revised. Thus high levels of reported long-term compensation for CEOs in a given year generally reflect gains on options that may have accrued over anywhere from one to ten prior years.

Just because CEOs are paid with stock options doesn't necessarily mean that their pay is tied to stock performance. Every critic has his or her favorite horror stories about CEOs who control or manipulate the compensation decision process, for example, or companies that have "repriced" their options so that their CEOs make money even when their stock prices fall. And compensation experts have argued at length about whether the many stock options awarded corporate executives in the 1980s were well designed for the purpose of focusing executive attention on stock performance. But focusing on abuses of the stock option mechanism obscures the significant transformation that the stock option revolution of the past decade represents in the accepted wisdom about what corporate executives should be rewarded for. Abowd and Bognanno's data suggest that this change in the way CEOs are paid has not taken place in other industrialized countries—CEO pay in both Japan and Germany in particular includes no "long-term compensation"—though it is beginning to happen in Canada, France, and the United Kingdom.

THESE CHANGES ARE PART OF A BROAD shift, both in corporate governance and in the way capital markets function, that occurred during the 1980s and that raised the returns required by the financial markets and gave U.S. investors more of the tools and the clout they need to enforce higher returns.

The 1980s was a unique decade in the history of U.S. corporations. Companies engaged in an unprecedented flurry of financing and control transactions. Some \$250 billion worth of publicly traded companies—about 480 whole companies and another 560 subsidiaries or divisions—were taken private in buyouts from 1979 through 1989. And hundreds of companies that did not go private issued junk bonds to refinance themselves and buy back their own equity. In all, more than \$640 billion worth of equity was removed from publicly traded status. Many companies were thereby "restructured," some voluntarily, and some out of fear of, or in response to the threat of, takeover. In many cases the restructuring forced these companies to increase the return they were providing to their investors—by selling off assets to pay back the debt, or cutting back on investments, or tightening up on operations, or reducing the amount they were paying in taxes.

Why were companies doing this, and what does it have to do with the flap over CEO pay today? Again, the explanation lies in corporate developments during

the 1980s. For 30 years after World War II, U.S. corporations in general, and the manufacturing sector in particular, generated enormous surpluses. Gross returns to capital greatly exceeded the cost of capital, enabling most large companies to satisfy the demands of their investors and still have plenty of cash left over to pay rising wages and invest in growth.

Executive compensation was typically determined very differently from the way it is determined today. Salary and bonus made up a much larger share of total compensation for CEOs in those days. Salaries were generally a function of how large the company was, while bonuses were often based on how fast the company was growing. Many executives of that generation thought that making their companies grow was a central part of their job, and success at growth was taken as proof that they were doing their job well. As long as the returns to capital in their businesses greatly exceeded the cost of capital, growth was also consistent with what shareholders wanted.

In the 1980s, this logic was turned on its head. Returns to capital in the corporate sector, which had been trending downward throughout the postwar period, collapsed to a postwar low during the recession of 1982. Meanwhile, real, inflation-adjusted interest rates shot up to unprecedented highs in the early 1980s, pushing the cost of capital up to new highs as well. Figure 3 illustrates what happened to the relationship between the cost of capital and the returns to capital in the corporate sector during this period. For a period of six or seven years in the early to mid-1980s, U.S. corporations, on average, were barely generating enough in cash flow to pay investors what they required, with little or none left over to finance growth and investment programs.

What ensued was a big, decade-long battle over the control of corporate resources. Raiders and hostile takeover artists figured out that they could buy out companies and increase their value by taking them apart, slowing investment, and paying out cash flow. Corporate executives who had been steeped in the old traditions mightily resisted this notion. Alongside the purely financial fights over individual companies, an ideological battle was being waged. The finance theorists, who dominated the battle in its early years, argued that the underlying problem with corporate performance was that there were not enough incentives and controls in place to make sure that corporate managers did what they had to do to increase value for the shareholders, even if that sometimes meant closing down plants, selling off assets, slowing down or redirecting investment, issuing debt and using the proceeds to buy back equity—or, in the most extreme case, selling off the whole company to someone else who would do these things.

One change that came out of this debate was a near consensus in the United States that the pay of CEOs should be tied to the return they achieve for shareholders. The use of stock options is one way to do this—and a way that both companies and executives like because, as noted, option awards have tax benefits, but don't count as income to the executive until cashed in (and are never expensed by the com-

pany). Executive pay packages may thus appear quite modest until the goods have been delivered to shareholders.

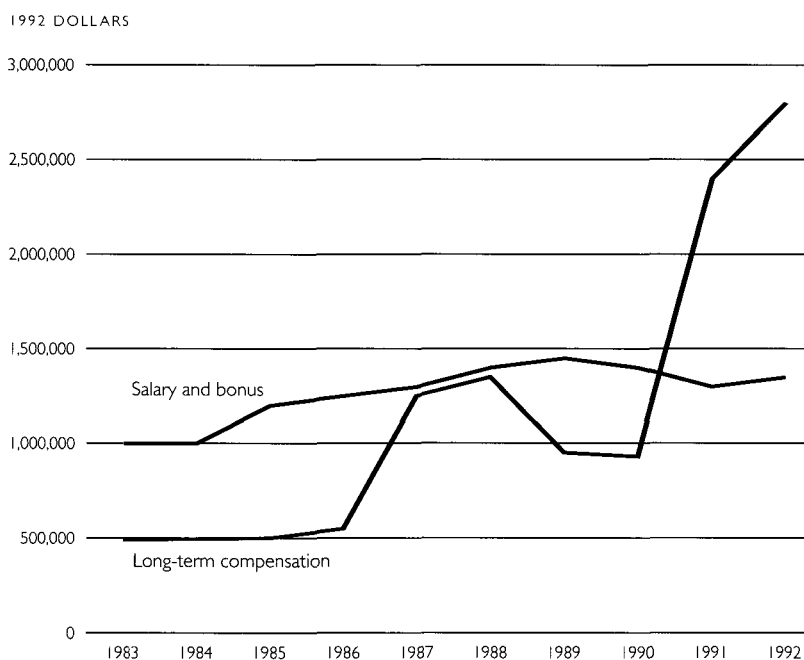
WHY SHOULD ANYONE BE UNHAPPY WITH this arrangement? The problem is that the pressures to tie executive pay to stock market performance came out of an extended episode in which the way to improve stock performance was often corporate restructuring that resulted in layoffs, cutbacks, and tremendous pressures on rank and file workers and mid-level managers. The pressures began to be felt in smaller firms in the early 1980s and are still working their way through the economy, with major layoffs and cutbacks even at such former pillars of the economy as IBM, General Motors, and Sears. The pressures to "downsize" and otherwise cut costs to push stock prices up has spread in the 1990s even to profitable companies such as Procter and Gamble and Eli Lilly.

Thus rising pay packages for CEOs and worsening job security for many ordinary working people are often driven by the same phenomenon: the relentless pressure from the financial markets to drive up stock prices. Several studies have shown, for example, that in the late 1980s and early 1990s, announcements of big layoffs, write-offs, stock buybacks, or other corporate restructurings were considered good news by the stock markets, leading to significant upward jumps in the price of the company's stock. To be sure, most of the largest executive pay packages of the past few years have been at companies like Hospital Corp. of America, Toys R Us, and Walt Disney, which are still growing and adding employees. But there are plenty of companies like Martin Marietta, General Dynamics, General Electric, RJR Nabisco, Time Warner, ITT, and Unisys, all of whose CEOs made the list of the 15 highest paid executives in years when their companies were undergoing significant downsizing.

In sum, the economic climate changed dramatically in the 1980s so that, from the point of view of shareholders, it often made more sense for companies to disinvest than to invest and grow. The resulting pressures from financial markets forced companies to change their compensation plans so that executives were rewarded for increasing share value even when that meant disinvesting. These pressures continue today, even though the cost of capital has come back down. From the point of view of shareholders, the strategy has worked: stock prices rose briskly in the 1980s and continued to rise through the recession of the early 1990s. And the surge has produced extraordinary pay packages for top-level corporate executives in the past few years as they cashed in stock options that had swelled in value with the rising stock market.

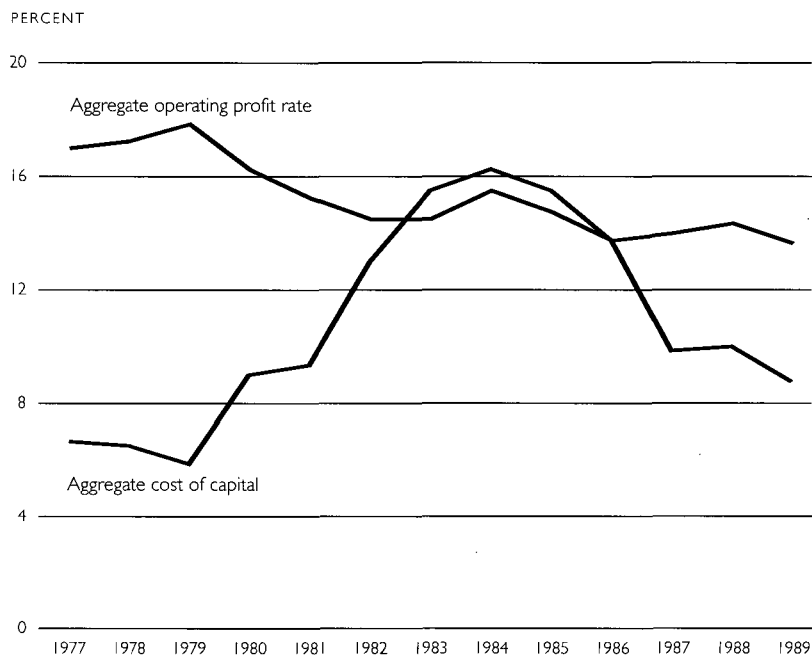
But whereas in the past, improved returns for shareholders were typically associated with growing incomes for all of us, in the current climate, jackpot compensation awards to executives are coming just as the earnings potential and job security of the average working person seem weaker than at any time in the past 40 years. And *that* goes far to explain what all the fuss is about. ■

Figure 2. Average Executive Compensation, 1983-92



Source: Data from *Business Week*.

Figure 3. Aggregate Operating Profit and Cost of Capital, Nonfinancial Firms, 1977-89



Source: Margaret M. Blair, "Financial Restructuring and the Debate about Corporate Governance," in Blair, ed., *The Deal Decade* (Brookings, 1993).



Few who witnessed the September 13 signing of the Israeli-PLO agreement on the south lawn of the White House will forget the moment when Yasir Arafat reached out to shake hands with a distinctly uncomfortable Yitzhak Rabin. President Clinton, smiling benevolently, stretched out his arms to embrace the once bitter enemies, now becoming partners in the search for a tolerable formula for coexistence between their two peoples within the same small land west of the river Jordan.

Just a few weeks earlier, no one would have been reckless enough to predict such a breakthrough in the sluggish “peace process” that had produced endless meetings in Washington but little real progress. And, indeed, the breakthrough did not come directly from American initiatives, but rather from secret contacts held mostly in Oslo, Norway, beginning early in 1993. Just as Egyptian President Anwar Sadat’s surprising trip to Jerusalem in November 1977 had not been scripted in Washington, but led to deep American involvement in subsequent peacemaking, so also the Israeli-PLO Declaration of Principles portended a larger—and different—role for the Clinton administration than had been imagined in the preceding months.

How the Agreement Was Negotiated

Given the centrality of the United States in most of the peace initiatives that have surrounded the Arab-Israeli conflict since 1967, it is worth asking why the Americans were so inconspicuous when this crucial piece of the puzzle seemed to fall into place.

BREAKTHROUGH

The simple answer is that neither party, Israel or the PLO, had any compelling reason to involve the United States in this initial, highly symbolic step. For the PLO, the United States was not likely to be a helpful mediator on substantive issues. The official U.S.-PLO dialogue had been broken off in mid-1990, and the Clinton administration showed no interest in reviving it. Instead, it was trying to promote the role of the Palestinian negotiating team to the Washington talks, a move guaranteed to anger the Tunis-based PLO leadership.

The PLO might have tried to enlist the Americans in some capacity, despite Clinton’s reluctance to deal with the PLO, if it had seen any prospect that the United States would exert pressure on Israel to soften any of its key positions. When Likud was in power, for example, the United States was consistently on record as opposing the creation of Israeli settlements. In addition, the United States maintained that any agreement should be based on the “land for peace” formula of UN Resolution 242. On both these points, the PLO could hope for some American pressure on a Likud-led Israeli government.

But that logic changed the moment that Labor won the 1992 elections and Yitzhak Rabin formed the new government. Now Israel agreed to stop settlements in the West Bank and Gaza and accepted that there would be withdrawal, as called for in UN Resolution 242, as part of any peace agreement with its neighbors. All of a sudden, there was little difference between the official Israeli stance and that of Washington, especially after Clinton came to power. As a result, the PLO began to look for ways to deal directly with the government of Israel. At least within the Israeli

William B. Quandt

After the Israeli-PLO

Next Steps for the United States

William B. Quandt, a senior fellow in the Brookings Foreign Policy Studies program, is the author, most recently, of Peace Process: American Diplomacy and the Arab-American Conflict since 1967 (Brookings, 1993).

cabinet there were some dovish figures who were outspokenly in favor of negotiating with the PLO and who seemed open to far-reaching concessions for peace.

On the Israeli side, there was ambivalence about the role that the United States might play. On the one hand, Rabin was very keen on keeping the Americans in the picture. He also seemed to favor an initial move with Syria, and there he would definitely need American help. Others, and especially Foreign Minister Shimon Peres, felt that Israel should move first with the Palestinians, and were inclined to seek out European mediation directly with the PLO to explore possible terms for agreement. Almost by chance, Peres' deputy learned of "academic" contacts between Norwegians

Ahmed Qra'i (Abu Ala'a) initialed the agreement. Then Peres and Holst flew to California to inform Warren Christopher.

Next Steps for Clinton

Despite their surprise, and perhaps even annoyance, the American team quickly fell into line behind the agreement, and President Clinton presided over a memorable moment in the history of the Arab-Israeli conflict when the agreement was formally signed last September. Almost immediately, however, the question arose of what would happen next. And what role would the United States play?

According to the Israeli-PLO agreement, Israeli troops would begin to withdraw from Gaza and Jericho in mid-December 1993; Palestinians would then begin to run their own affairs in these two areas, with security being provided by Palestinian police. Meanwhile, negotiations would take place to work out the details of self-government in the rest of the West Bank. Israeli settlers would remain under Israeli authority, and East Jerusalem would not be part of the self-governing area, even though its Arab residents would be allowed to vote in the elections that would be held by mid-1994. If all goes according to plan, negotiations on "final status" issues would begin toward the end of 1995 and should conclude three years later.

The Israelis and Palestinians have demonstrated that they do not need the United States in order to talk. Indeed, within weeks of the September 13 agreement, Rabin and Arafat met in Cairo for a businesslike session to accelerate the planning for the transition in Gaza and Jericho. But the United States still has several crucial roles to play. For example, the self-governing Palestinian areas will need a considerable amount of investment and aid to become economically viable. The United States immediately undertook to organize a "donors' conference" in early October 1993, which succeeded in eliciting pledges of more than \$2 billion over the next five years in various forms of aid. In brief, Washington now finds itself in the role of "facilitator" and "enabler" more than architect or engineer on the Israeli-Palestinian track. In later stages of the negotiations, when the truly difficult issues arise, there may be a need for more energetic mediation by a third party, but the United States will be bogged down in presidential election campaigning in 1996 and may not be able to devote much time or energy to Middle East peacemaking until 1997. The parties would therefore be wise not to depend too heavily on a substantive American role when it comes to negotiations on Jerusalem, settlements, borders, and sovereignty, even though it will be then that they will need all the help they can get to bridge the remaining gaps.

The Importance of the Syrian-Israeli Front

Where the United States can be expected to assume the "classical" role of "mediator with clout" will be on the Israeli-Syrian front. Even if there are secret contacts between the two sides, it is hard to imagine that an agreement can be reached without some form of active American mediation. The reason is twofold. Israel and Syria have successfully negotiated once before, in 1974,

*With luck, and with international assistance,
the Israelis and their immediate neighbors
can look forward to peace, expanding
economies, and growing democratization.*

and Palestinians and agreed to encourage non-official Israelis to join this exploratory effort early in 1993. The Americans were kept informed, but did not show much interest in what seemed to be a sideshow at best.

By mid-1993, the Washington talks were bogged down, even though the United States had tried to introduce ideas to break the apparent deadlock between the Israelis and Palestinians. Secretary of State Warren Christopher was preparing to visit the area, but his focus seemed to be on moving the Israeli-Syrian track forward. Meanwhile, the secret talks in Oslo were making considerable headway, and both sides were considering an early implementation of any agreement in Gaza and Jericho, to be followed by a full-scale agreement on autonomy for Palestinians in the remainder of the West Bank.

Not surprisingly, the negotiators reached a point by August where the remaining issues could be solved only at the highest political level. Time was becoming an issue as well, since the Israeli press was getting wind of the Gaza-Jericho plan, and the PLO leadership seemed to be losing its hold over its own constituency. In these circumstances, Rabin and Peres decided to go for broke. Peres flew to Stockholm on an official visit, and, while there, called the Norwegian foreign minister, Johan Holst, and asked him to come immediately to join him.

Peres informed Holst that he was authorized to conclude the negotiations that same night. Holst got hold of Arafat, and after eight hours of telephone negotiations the deal was done. The following day Peres and

with the United States as the go-between. The agreement that resulted has lasted, and both sides are inclined to follow the same procedure for the future. In addition, both sides will want payoffs for concessions that they make, and only the United States will be in a position to make the kinds of commitments that will be sought. For example, Israel will seek some means to compensate for the loss of strategic warning if and when it evacuates the Golan Heights. Access to American satellite technology, coupled with other types of guarantees, might help. Syria, likewise, will want American promises of economic assistance, removal from the list of countries supporting terrorism, and other political gestures that will open the way for greater investment and trade. In brief, the United States is likely to find itself in the role it played in bringing about the Egyptian-Israeli peace—providing reassurance, identifying trade-offs, making side-payments, exerting pressure, and keeping the focus on the strategic benefits of reaching an agreement.

At some point, we should expect to see Warren Christopher shuttling between Damascus and Jerusalem to try to work out a declaration of principles between the two parties. Its content can be foreseen in rough outline. Syria will commit itself to full peace and normal relations as part of a comprehensive agreement in which it recovers its territory on the Golan Heights; Israel will agree to relinquish any claim to sovereignty over the Golan, provided that Syria commits itself to full peace; and both sides will agree to negotiate mutually satisfactory security arrangements that will be carried out according to an agreed timetable. This will leave ample room for tough negotiating, but the shape of the future agreement is not hard to see. The Golan will be transformed into a buffer zone, with some form of peacekeeping force in place; a gradual process of normalization will be agreed upon, perhaps coinciding with the stages of the Israeli-Palestinian agreement; and negotiations on south Lebanon will move in parallel. Meanwhile, Jordan and Israel will move ahead with their own bilateral negotiation, and other Arab countries will gradually drop the boycott on dealing with Israel, both diplomatically and commercially.

An Arab-Israeli Zone of Peace?

For this to succeed, the United States will have to remain engaged. But it will not have to impose a design of its own making. The parties to the conflict will be the architects, but will need help in translating words on paper into new relationships. With luck, and with international assistance, the Israelis and their immediate neighbors can look forward to a very different future in coming years, one of peace, expanding economies, and growing democratization. There will be exceptions and setbacks, no doubt, but by decade's end a "zone of peace and democracy" in the eastern Mediterranean could be well on its way to realization. Egypt, Israel, Lebanon, Palestine, and Jordan would be the key participants, perhaps with Syrian involvement as well. If this scenario does unfold, the United States will be in the enviable position of being able to serve its interests in regional stability while supporting its principles of democracy and open economies. ■

THE ROAD TO PEACE

In 1967, after the Six-Day War, the Johnson administration, without much forethought, took the position that it would not work for a return to the status quo ante, but rather would press for an overall settlement of the Arab-Israeli conflict. That meant supporting Israel in holding onto the territory captured in 1967 until such time as the Arab parties to the conflict were ready to make peace in conditions of mutual security. Egypt showed the way in 1978, after having fought a costly war in 1973; the PLO and Israel took the next big step 15 years later, after much more bloodshed. No one in 1967 would have thought that the road to peace would be so long or so difficult, and many lost hope that the frustrating "process" of peacemaking could ever yield peace. But it has, and now it seems that it will continue to do so. For the first time in many years, Arab-Israeli peace no longer seems to be such a distant dream. But for the dream to be realized, the United States will have to remain involved as a partner. This is no time for American disengagement; indeed, an American policy of "benign neglect" could quickly undermine the prospects for Arab-Israeli peace. In the past, the United States has spoken of its willingness to be a "full partner" in any serious effort to reach peace in the Middle East. That is precisely the role that will be required.

President Clinton made the point eloquently on September 13, 1993, when he seemed to realize for the first time the magnitude of the responsibility that had landed on his shoulders. Addressing Israelis and Palestinians, he said:

"The United States is committed to ensuring that the people who are affected by this agreement will be made more secure by it and to leading the world in marshaling the resources necessary to implement the difficult details that will make real the principles to which you commit yourselves today. Together let us imagine what can be accomplished if all the energy and ability the Israelis and the Palestinians have invested into your struggle can now be channeled into cultivating the land and freshening the waters; into ending the boycotts and creating new industry; into building a land as bountiful and peaceful as it is holy."

TESTS OF LEADERSHIP

John Steinbruner is director of the Brookings Foreign Policy Studies program.

This article is adapted in part from "The Unsettled Future of NATO," published in the December-January issue of European Brief.

President Clinton assumed office with a determination to redirect the domestic economy and an instinct for continuity in foreign policy. That, at any rate, is how his political posture was perceived by much of the attentive world, and the impression has been reinforced during his first year in office. His administration has assertively pursued its domestic agenda but has drifted indecisively in international politics. The successful defense of NAFTA was an important reaffirmation of free trade principles associated with his domestic priorities, but on matters of security, continuity is not a feasible guideline in the aftermath of the Cold War.

This evident disparity in commitment has become a source of sharpening dispute. Radical changes in worldwide security and economic conditions compel major foreign policy innovations, and the stature of the United States inspires insistent demands for American leadership. Within the United States those who would rise to the occasion and those who would fend it off are maneuvering toward a fundamental debate. Each side is inclined to pose a defining test for the president, and events are conspiring to do just that.

Three circumstances in particular are likely to shape whatever pattern emerges to replace the Cold War confrontation. First, the ripping of the large Soviet military establishment into politically divided pieces has left nettlesome issues to be settled—the internal coherence of the pieces, their relationship to each other, and their standing in international security arrangements. Second, accumulating evidence of a nuclear weapons program in North Korea has brought regional security arrangements in Asia and the broader problem of controlling weapons proliferation to a critical juncture. Third, the political disintegration of Yugoslavia has revealed a type of security problem the international community is obviously unprepared to handle.

None of these situations can be managed within the confines of prevailing policy. All three will almost certainly spawn decisive events in the course of President Clinton's first term. The domestically focused president will be driven, whether by act or by omission, to new ventures in foreign policy and will be judged on the consequences. Such are the workings of fate.

Russia and Ukraine

For all the considerable doubt about the political evolution and policy inclinations of Russia, the basic constraints under which any Russian government will have to operate are obvious and unavoidable. Russia has inherited roughly half the Soviet Union's military assets, including provisionally all of the nuclear weapons. It is trying to sustain those assets with a budget about 15 percent of the Soviet military budget and could not substantially increase that allocation without threatening its already tenuous prospects for a successful economic transformation. That dictates a major retrenchment complicated by the fact that many of the conventional force units have had to be relocated. A systematic redeployment to reflect the new geopolitical realities of Russia would require substantial investment for basing and support infrastructure.

Quite apart from the internal turmoil, it would be extremely difficult for Russia to establish high standards of conventional defense against the array of imaginable contingencies with no formal allies and no benefit from organized restraint in the surrounding regions. That harsh fact imposes a severe dilemma. The natural military inclination—and a practice that NATO has legitimized—is to rely on nuclear weapons to bolster fragile conventional defenses. That inclination is reflected in the new military doctrine the Yeltsin government has just issued. Systematic development of an explicit doctrine of flexible response, however, would risk political isolation and would almost certainly undermine the international agreements that now provide some measure of relief. It is unlikely, for example, that Ukraine would implement the obligations of the Lisbon protocol or accept the zonal restrictions of the Conventional Forces in Europe agreement if Russia develops such a doctrine.

Ukraine faces an even more severe form of the same dilemma. Its economy is in profound crisis with no program for recovery or reform yet in place. It cannot sustain the portion of the Soviet military establishment it has inherited, nor can it maintain a competitive balance with Russian forces, however unanimous and intense its political will to do so. It cannot consider a flexible response doctrine of its own without reversing its commitment to eliminate nuclear weapons and without establishing actual operational

UNAVOIDABLE ISSUES OF FOREIGN POLICY

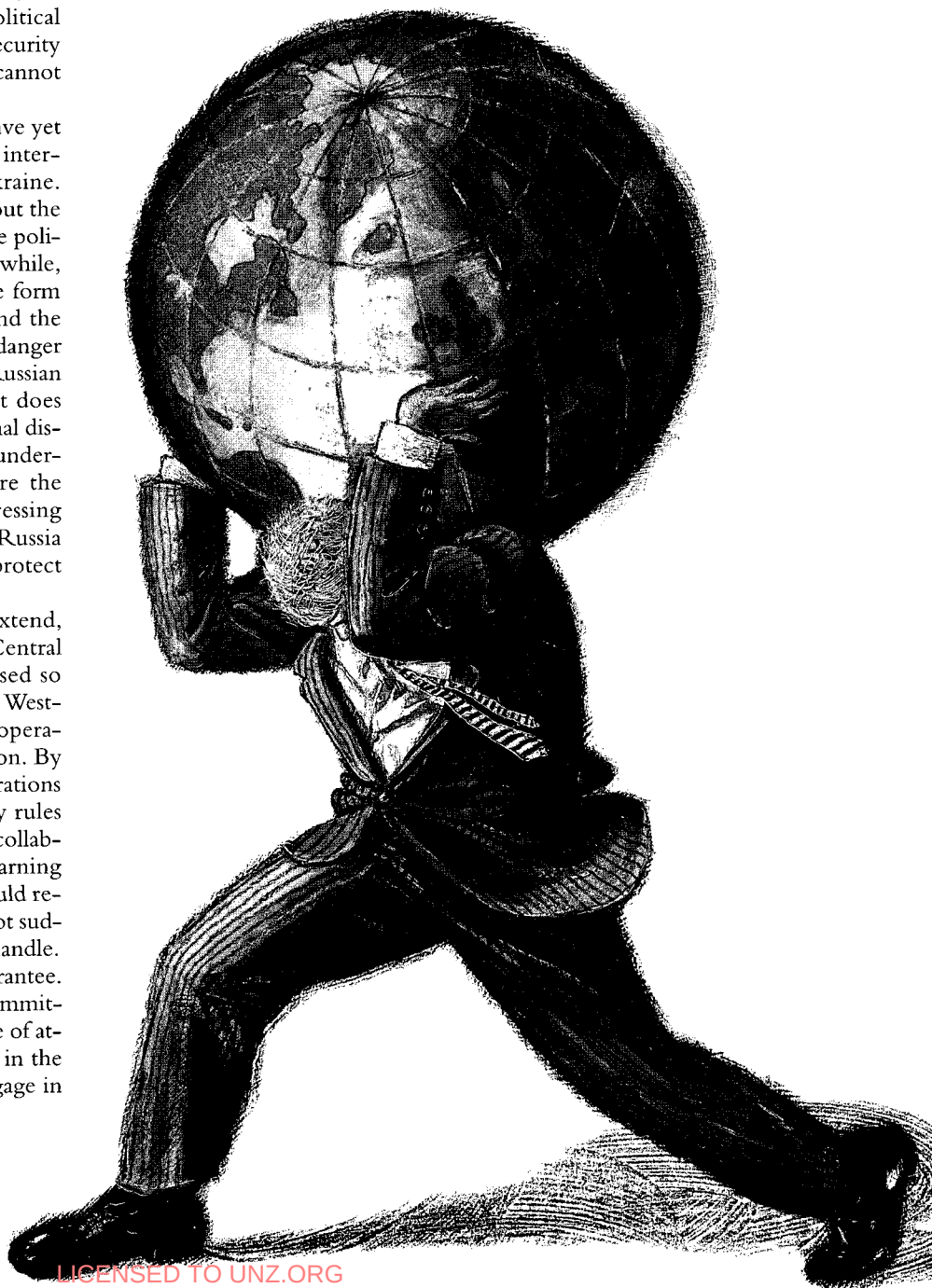
JOHN STEINBRUNER

control over the weapons. Those actions would halt the entire process of strategic arms control, guarantee political isolation, and likely trigger an immediate military confrontation with Russia. But carrying out its agreement to eliminate nuclear weapons would provide only the possibility of international assistance, not the reality. The temporizing of Ukraine's political leaders is understandable. They do not have a security option they can reasonably choose, and they cannot fashion one on their own.

The United States and its traditional allies have yet to acknowledge the full implications of these intertwined security problems in Russia and Ukraine. Residual suspicion of Russia and skepticism about the ultimate viability of Ukraine have held tentative policies of engagement within narrow limits. Meanwhile, proposals have been advanced to extend some form of Western protection to Poland, Hungary, and the Czech Republic. That pattern intensifies the danger that a siege mentality might take hold in the Russian or the Ukraine military establishments, and it does nothing to reduce the related danger that internal disintegration within these establishments might undermine their coherence. These two dangers are the dominant security problems of Europe. Addressing them requires the systematic reassurance of Russia and Ukraine, not their isolation. One cannot protect Poland by actions that destabilize Russia.

The obvious imperative is for NATO to extend, first to Russia and Ukraine and thereafter to Central Europe as a whole, the same techniques it used so successfully to stabilize security relationships in Western Europe. That would entail building a cooperative security arrangement throughout the region. By setting standards for the size, location, and operations of military forces, by establishing transparency rules to monitor these standards, and by organizing collaboration on sensitive matters such as missile warning and air traffic control, such an arrangement would reassure all the new governments that they will not suddenly be presented with a threat they cannot handle.

That assurance is a new form of security guarantee. It does not rely primarily on the traditional commitment to provide direct military assistance in case of attack, though that implication would still stand in the background. Rather the commitment is to engage in



collaborative regulation so that an intimidating attack cannot be initiated and is not as a practical matter an immediate question. Basically European security will not be stable or complete until this type of guarantee is systematically developed throughout the region.

Unfortunately political imagination in the Western alliance at the moment does not extend this far, and as a consequence, viable policy cannot be built on existing consensus. The alliance is in serious need of political leadership. By virtue of the office he occupies, President Clinton is the only plausible source.

Asia

During the Cold War, security conditions in Asia evolved in a very distinctive pattern. Although Asia bred the two major active conflicts of the period—the wars in Korea and in Indochina—and featured some of the most prominent unsettled territorial disputes—between China and Taiwan, between North and South Korea, and between Russia and Japan—it did not generate the sense of massive threat that so dominated security relationships in Europe. Force postures in Asia did not have the offensive operational configuration that drove fears of an all-encompassing conflict in Central Europe. Confrontation in Asia was more localized than it was in Europe.

Presumably as a consequence, Asia did not develop a regional security dialogue, institutionalized cooperation, or formal restraints of the sort that arose in Europe. Security was more exclusively conducted through national military programs reinforced by bilateral relationships. The United States developed strong and explicit security guarantees for Japan and South Korea and maintained an important but more discreet relationship with Taiwan. The Soviet Union and China did so separately for North Korea. These arrangements established reliable military protection for the states of the region but did not relieve them of the underlying political tensions. A great deal of confidence building and political reconciliation remains to be accomplished in Asia.

The most significant open question is the security posture of China. With nearly a quarter of the world's population, China is already the third largest economy and is destined, in all probability, to become the largest. Its military capacity is modest now, but over the longer term it inherently has major potential. China's size and location already pose perhaps the most serious immediate problem for Russian defense planning, since deteriorating Russian conventional forces inside Siberia do not offer robust protection against China's ground forces. If Russia is to be systematically reassured, China will have to be an integral participant, and the security cooperation worked out in Europe will have to be extended to Asia.

That implies that China would have to accept rules of transparency and formalized restraint on its military forces, but it also implies that China would have to be granted full standing to determine and enforce the rules. A cooperative security posture is consistent with China's established policy of integrating into the world economy and ultimately may even be a necessary complement to that policy. China, however, has not

yet made that determination, nor have the other major powers in Asia seriously tried to encourage it. Moreover, that outcome is not inevitable. China could choose to maintain an assertively independent security posture, could even develop a confrontational one. If so, all security matters in Asia and elsewhere would become considerably more difficult.

In this context the issue of a nuclear weapons program in North Korea looms as a major catalytic event. If it comes to be generally accepted that North Korea is relentlessly pursuing an actual nuclear weapons capability, all security arrangements in Asia will be very seriously reconsidered. Japanese officials have pointedly said that they do not want to face such a problem, for reasons that do not require much imagination to appreciate. And similarly with South Korea. Both nations would face an agonizing reappraisal of their stance toward nuclear weapons. China also would face a sharp test of intent, since any effort to impose punitive sanctions on North Korea would have to have full Chinese collaboration to have any chance of working. If, on the other hand, the incipient North Korean nuclear program is to be brought under credible restraint, then undoubtedly some set of regional reassurances would be necessary. The handling of this issue is likely to be a major fork in the road for Asian security arrangements generally.

Unfortunately a physical deadline appears to be imposed on the issue. North Korea has been operating a small nuclear reactor that must be refuelled early in 1993 if it continues to operate normally. If the refuelling does not take place under some acceptable form of international scrutiny, that fact is likely to be taken as definitive evidence of a nuclear weapons program.

Large uncertainties surround both the capacity and the intention of North Korea to develop nuclear weapons, but it is a reasonable judgment that North Koreans are themselves uncertain and subject to influence on the matter. It is widely presumed that they have produced a small but significant amount of plutonium in contravention of the Non-Proliferation Treaty—enough, perhaps, for a couple of weapons. They are building a reprocessing facility that could service an appreciable weapons program. Completing the actual development of weapons, however, under the international scrutiny now focused on them would mean indefinite economic isolation with substantial risk of directly coercive actions. Relinquishing the option and submitting to inspections promises international vilification and internal controversy. No international security arrangement has been offered that would provide compensating benefit. Like Ukraine, they also appear to be temporizing with a difficult question. They are probably also prone to misjudging the likely world reaction to an uninspected refuelling of the reactor.

Resolving the issue probably requires both an unusual degree of threat and an unusually extensive offer of political accommodation. If North Korea is to demonstrably abandon its nuclear option, its internal hardliners will have to be intimidated by the consequences of not doing so now—not an easy task. In addition those in North Korea inclined to accommo-

dation will have to be reinforced, in part by reassurances that they will not be embarrassed in the necessary process of establishing an accurate accounting of their fissionable material inventories, in part also by offering a reasonable prospect of political and economic normalization.

Issuing an effective combination of threat and reassurance to North Korea, forging a strategic relationship with China, and systematically developing regional security arrangements in Asia are also matters that impose unavoidable requirements for political leadership on the American president. As in Europe the inherent demands of the situation will exceed the scope of prevailing political attitudes and established policies. They cannot be met by polling political opinion or conducting a bureaucratic review. They test the qualities of boldness and vision, a daunting prospect for any mortal.

Civil Violence

The violent dismemberment of Yugoslavia has documented egregious defects in the policies of Western governments and the operations of European security institutions. These defects are not solely responsible for the legal and humanitarian disaster that has occurred, but they certainly have contributed. Very likely the lessons to be learned will be long and hard in coming, but already there are some presumptive judgments.

First, the fundamental problem is political disintegration, and it appears to be an endemic danger throughout the region. The ethnic tensions that have structured the Bosnian conflict and the aggressive militias that have conducted it did not themselves generate it; they are more manifestation than cause. Virtually any society would produce violence of this sort if its political system degenerated to the point that basic civil law could not be enforced. The general surge of ethnic violence in the Balkans, the Caucasus, and elsewhere suggests that segments of many of the emerging states have reached that point.

Second, the international community is heavily but unwittingly implicated in the problem and does not know how to identify or control the effects it produces. Radical political disintegration is almost certainly linked with the powerful, restructuring momentum of the international economy that is transforming the world socially and politically. It is likely but not yet proven or acknowledged in the case of Yugoslavia that the coherence of the federal government was systematically eroded by a long sequence of underwriting a large external debt while denying market access necessary to service it and then imposing social retrenchment by means of IMF stabilization measures. Disintegration appears to be a poorly understood pathology of economic reform.

To the extent that these judgments prove correct, the conflict in Bosnia is not likely to be contained or resolved by the measures that have so far been contemplated, nor will it be the only crisis of civil order that reaches the acute stage. Arming the Muslim forces would not make them competitive in military terms, nor would adjusting the balance between the ethnic armies lead to a stable political partition and viable

economies. Attempting to enforce a negotiated partition that implicitly requires the forced migration of ethnic communities caught in an opposing jurisdiction is not an exercise that NATO governments could sustain with their domestic constituencies. Attempting to disengage as fighting extends indefinitely in Bosnia, as it spreads into Croatia and Macedonia, and as upwards of a million displaced persons vent their desperation would be an irresponsible postponement of some eventual reckoning. Disintegration of the sort that has plagued Bosnia is a threat to legal order generally. Ultimately the rule of law will have to be defended.

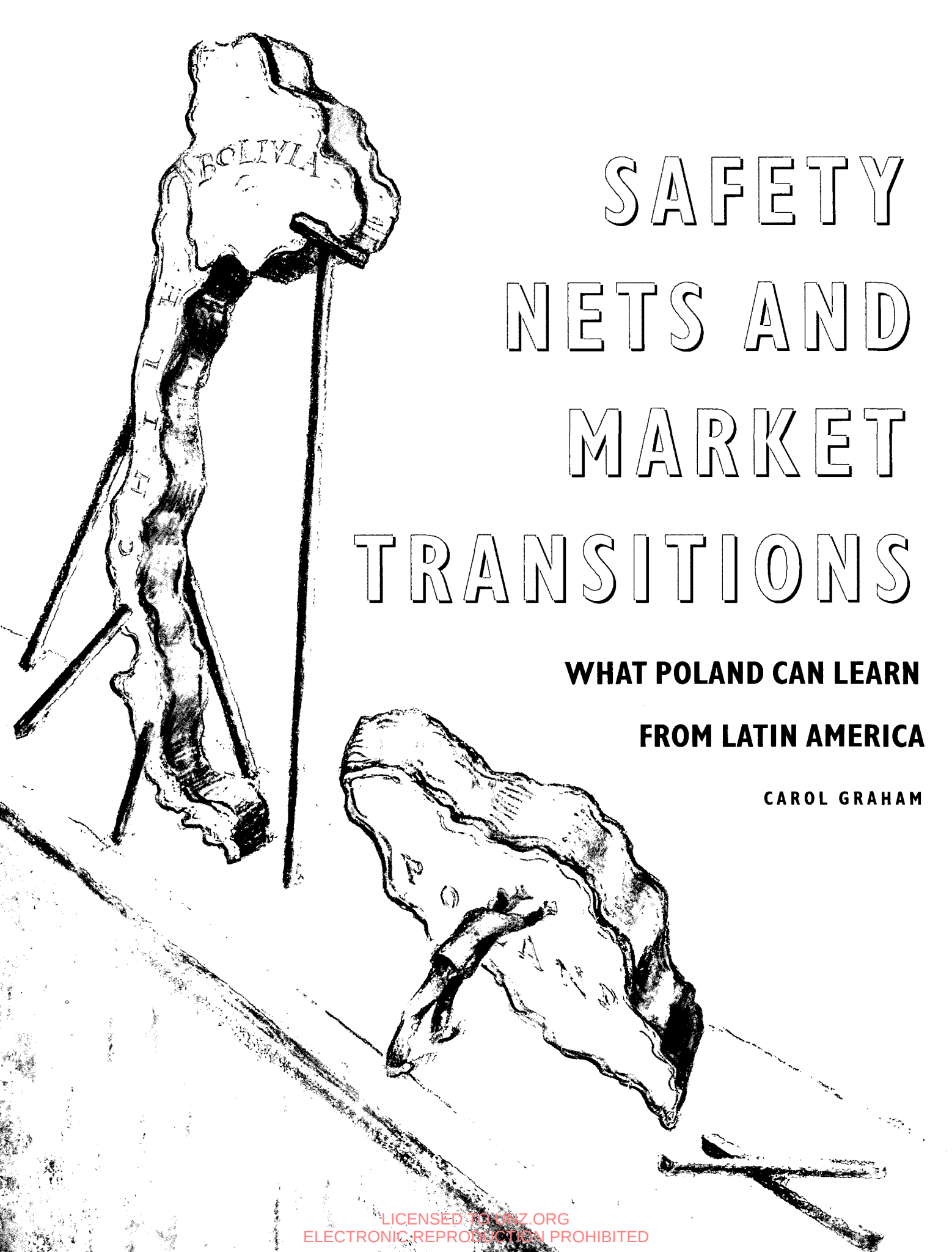
It appears, therefore, that the preservation of civil order is an emerging imperative of international security, eventually compelling major extensions of policy and institutional development. The standards of civil order will have to be defined. Much more serious efforts will have to be undertaken to prevent calamitous political disintegration. Sophisticated military operations will have to be designed to restore civil order

**THE DOMESTICALLY FOCUSED
PRESIDENT WILL UNAVOIDABLY
BE DRIVEN TO NEW VENTURES
IN FOREIGN POLICY AND WILL
BE JUDGED ON THE RESULTS.**

when disintegration has occurred, in particular to suppress predatory militia while reassuring their base populations. Equally sophisticated diplomacy will be required to establish a legitimized, broadly multinational capacity for such operations.

This is probably the most difficult of the three situations that unavoidably confront the new president. It is certainly the one that has caused him the greatest grief so far. He contemplated an involvement in Bosnia by convenient but impractical means—air strikes and arms sales—and was forced to retreat from the idea. This early misadventure, as well as the poorly designed involvement in Somalia that he inherited, has prejudiced the larger purpose he is compelled by events to pursue. He will have to recover as well as innovate.

He deserves broad sympathy and support as he attempts to do so. It is well to remember that it is not just an incumbent president that is being tested by these events. It is our entire political system. As we trumpet the virtues of democracy, we had best demonstrate as well that we can handle the demands of the new era. ■



SAFETY NETS AND MARKET TRANSITIONS

**WHAT POLAND CAN LEARN
FROM LATIN AMERICA**

CAROL GRAHAM

No event better illustrates the urgency of addressing the social costs of economic reform than the September 19 parliamentary elections in Poland. With the world at large praising Poland's remarkably successful transition to a market economy, Poland's voters made it clear that economic reform was not enough. The reformist Suchoka government won less than 12 percent of the vote—losing decisively to forces in Poland in favor of slowing or stalling reforms, especially privatization of heavy industry, as a means to curb rising joblessness and poverty. The former communists (now the Democratic Left Alliance) won 20 percent of the vote; a nationalist peasant coalition with fascist tendencies (the Democratic Union), 16 percent; and several other splinter groups, about 5 percent. With more than 40 percent of the seats in parliament, these forces now have a decisive voice in the course that reform takes. Though it is doubtful that any coalition, regardless of its composition, could reverse the extensive reforms that have been implemented, Poland's transition is still so fragile that even minor policy reversals could have extremely high economic and social costs.

The future course of reform is now uncertain. Although the new government coalition capitalized on popular fears about the social costs of reform to win the election, it has offered no tangible or financially viable proposals to deal with the social issues. The social welfare system on which Poland relied under communism has virtually broken down. Increasingly insolvent, it is ill-equipped to deal with the poverty and unemployment generated by the economic transition. Yet simply stalling economic reform will only make matters worse.

In the short term, the only realistic alternative is a system of targeted social safety nets. In this arena, Poland's new government would be well advised to look closely at the way some Latin American countries used safety nets to protect vulnerable and needy groups during their experience with the difficult shift from state-oriented to market economies during the 1980s.

The Situation in Poland

Since 1989 Poles have been through tremendous economic and political change. The first post-Communist government had little choice but to implement a dramatic plan to stabilize hyperinflation before embarking

on market-oriented structural reforms. In 1990 production plummeted, while prices rose 586 percent. Production has since turned around. Annual inflation came down to 70 percent in 1991 and now stands at 35 percent. The private sector now employs more than half the nation's population. Yet poverty, virtually unknown before the transition, has become a contentious problem, affecting at least 15 percent of the population. And unemployment, officially zero before 1989, stands at 12 percent nationwide and is as high as 30 percent in some of the depressed industrial regions.

The old social welfare system, based on universal access to all benefits, is no longer sustainable. The pension system, which does not require employee contributions and is fraught with disincentives that result in premature retirement and thousands upon thousands of cases of false disability, is insolvent and is one of the primary forces driving the public sector deficit. The public health care system, meanwhile, has virtually broken down and is characterized by shortages, queues, and under-the-table payments. As government resources shrink, there is little alternative but to dismantle the universal system and target benefits to the increasing numbers of poor and unemployed.

Yet progress on reform of the social welfare system has been frustratingly slow, and as a result the public debate over further economic reform increasingly emotional. Workers in the mass-scale public enterprises bitterly oppose proposed privatization plans for fear of losing their jobs. Relations between the Suchoka government and trade unions were contentious well before the September elections. In last May's vote of no-confidence against the Suchoka government—the vote that triggered the September elections—Solidarity voted against the government. And as the elections demonstrated, the appeal of both left- and right-wing strains of authoritarian "populism" is on the rise.

What has been missing from the political debate are proposals for short-term safety nets to maintain at least minimum social welfare standards until the broader system is reformed and the economy achieves steady growth. The trend in Poland, as in Eastern Europe generally, has been to look toward European unemployment systems rather than at the many experiences worldwide with safety nets. Although European unemployment systems may be the solution in the long term, they will take time to develop and require resources on a scale that is now unrealistic to consider. In the meantime, temporary safety net measures are critical to meeting the needs of the poor and unemployed.

Carol Graham is a guest scholar in the Brookings Foreign Policy Studies program. She is completing Safety Nets, Politics, and the Poor: Transitions to Market Economies, and is the author of a book and several articles on the political economy of reform in Latin America.

**POLAND'S
TRANSITION IS
STILL SO
FRAGILE THAT
EVEN MINOR
POLICY
REVERSALS
COULD HAVE
EXTREMELY
HIGH ECONOMIC
AND SOCIAL
COSTS.**

Targeting Welfare in Chile

One of the first and most effective efforts to protect the poor during a transition from a state-run to a market economy was that made by Chile during the late 1970s and 1980s. After toppling the government of President Salvador Allende in a military coup in 1973, dictator Augusto Pinochet dismantled Chile's decades-old system of state subsidies for industry and welfare and dramatically curbed public spending to bring triple-digit inflation under control. Part and parcel of the Pinochet government's reduction in the size and scope of government activity was a revamping of Chile's extensive social welfare system, which had long provided for the needs of Chile's industrial-sector middle and working classes but excluded the usually poorer workers in the informal sector. While cutting overall social spending per capita, Pinochet targeted it to the poor and actually increased it for the lowest two income deciles. The approach proved extremely effective in protecting these groups during the severe economic crisis of the mid-1970s and early 1980s. The decline in the infant mortality rate that had begun as early as the 1920s, for example, actually accelerated, and Chile's rate is now one of the lowest on the continent, below those of Colombia, Argentina, and Mexico.

There are clearly limits to the replicability of the Chilean experience. A democratically elected leader would face far more political constraints in reallocating public resources to the poor at the expense of the many people at the margin. Yet even the authoritarian Pinochet government was concerned with political opposition and social unrest throughout the process of economic and social welfare reform.

One evidence of that concern was the mass-scale public works programs put in place by the Pinochet regime from 1975 to 1987. The programs employed up to 30 percent of the work force—500,000 people—at the height of economic recession in 1982. The salaries, less than half the minimum wage, ensured that only the poorest and neediest workers participated. Although implementation at the beginning was haphazard and labor was not always used productively, even the programs' harshest critics agree that they helped prevent social explosion at a time of unprecedented unemployment. In addition, there were gradual improvements in program design, and the incorporation of some private sector hiring and training helped workers find permanent jobs with their private sector firms.

The programs were also notable for their systematic coverage, scale, and speed in implementation, particularly given the limited domestic resources available. Indeed, critics argue that the resources allocated to the jobs programs were insufficient. While half a million workers were employed at a budget of \$300 million in 1983—1–1.5 percent of GDP—fewer than 2,000 insolvent bankers were receiving subsidies from the Chilean government totaling 3 percent of GDP, or over \$600 million.

Yet for all the Pinochet government's faults—and despite its dismal record in the realm of civil liberties—it did manage to protect the poorest sectors of society during a time of radical economic change and severe recession.

Bolivia's Social Fund

Bolivia used a different strategy to protect its poor during economic adjustment. Shortly after its election in 1985 the democratic government of Victor paz Estenssoro imposed a draconian stabilization program to end a hyperinflation of more than 11,000 percent and began a process of structural reform that included liberalizing trade and tariff regimes and privatizing inefficient state firms.

As Bolivia's social welfare structure was notoriously inefficient and underdeveloped, the government set up the Emergency Social Fund as an independent agency outside the traditional bureaucracy. A linchpin of the government's public relations, the highly visible ESF administered \$240 million—primarily from external donors such as the World Bank—in its four years of operations. The projects it created, ranging from infrastructure (health posts, schools, low-income homes) to services (job creation, school lunch programs), benefited more than 1 million poor in a country with just under 7 million people. Not only did the ESF provide desperately needed income and infrastructure at a time of painful economic change, it was also integral to the political sustainability of Bolivia's reforms.

The ESF, the first social fund of its kind, attracted much national and international attention. The Fund's approach was demand-based: it did not design or administer its own projects. Rather, it responded to proposals from community organizations and local governments and then subcontracted the projects to local nongovernmental organizations or the local construction sector.

Critics question the program's ability to ease poverty on a permanent basis and to target the poorest sectors, as well as its position outside the public sector. They point out that the ESF program did not reach those most directly affected by adjustment, the tin miners who lost their jobs when the state-owned mines were privatized, and that it failed to reach the poorest of Bolivia's people. Of the five bottom income deciles, the wealthiest received \$23.97 per capita while the poorest received \$9.45. ESF workers represented 6.25 percent and 7.75 percent of workers in the two poorest income deciles, but 13.25 percent, 21.5 percent, and 15.3 percent respectively in the next three deciles. Yet by regional standards those three deciles in Bolivia are still considered quite poor, and the ESF's reach of 1 million poor in such a small population dictates some impact on poverty alleviation.

The ESF was also notable for its nonpartisan operations—it worked with local governments and nongovernmental organizations of all political bents—in a country where aid programs have traditionally been influenced by patronage politics. The ESF made possible unprecedented collaboration between nongovernmental organizations—the groups with the closest ties to the poor—and the state, and thereby reached the poor in remote communities that had rarely, if ever, seen the state follow through on its promises. By encouraging local governments to embark on community initiated projects and by provid-

ing them with funds independent of the central government, the Fund stimulated important institutional development at the local level. And the Fund's demand-based structure kept it from being monopolized by any one political actor at election time. Diverse actors, from the governing party to local governments and NGOs, could claim credit for ESF projects. The 1989 presidential and 1987 and 1989 municipal elections saw no correlation between ESF funds and the electoral outcomes.

The ESF's failure to target the poorest sectors, meanwhile, is in part a flaw inherent to demand-based programs: the poorest communities are the least likely to present viable project proposals. On the other hand, such funds usually benefit large numbers of poor, and the schools and health posts that they provide tend to serve poorer groups who may not have been involved in soliciting the project. Finally, the impetus that they provide to local organizations, NGOs, and municipal governments is an invaluable and lasting step toward alleviating poverty.

The political benefits of the ESF were also considerable. By helping the poor to help themselves and by giving them a stake in economic reform, the ESF generated support for the government, if not for the adjustment program itself, thus enhancing the feasibility of economic reform. If the Fund had instead focused its efforts on the militant tin miners, it would probably not have altered their opposition to the government's economic strategy. The rapid pace of reform, coupled with the crash of world tin prices, meanwhile, had curtailed the political power of the traditionally influential tin miners' confederation, giving the government an opportunity to shift its focus to less vocal but needier groups.

The ESF experience does not imply that those directly affected by adjustment do not merit compensation, only that most efforts aimed at reform's most vocal opponents will do little to enhance its political sustainability. By contrast, programs that strengthen the political voice as well as the economic potential of the poor may create opportunities for building "pro-reform" coalitions among traditionally marginalized groups. Reaching out beyond vocal, militant labor groups is worth attempting in Eastern Europe, where the needs of a great many unemployed workers in severely depressed regions are being overshadowed by those of their more vocal counterparts in urban metropolises or strategic industries.

Poland: What Kind of Safety Net?

In Poland, delays in key structural reforms such as privatization of state industrial conglomerates have created increasingly unsustainable fiscal deficits. And the longer structural reforms are postponed, the more anxiety about their potential social costs grows—which increases political opposition to the market transition generally. Government insolvency, coupled with the growing public perception of the need to provide for the increasing numbers of poor and unemployed, dictates an immediate re-vamping of the social welfare system. Failure to do so will jeopardize both the economic reform pro-

cess and democracy itself, as the recent electoral results demonstrated.

The reform proposals under consideration by the Suchoka government would have guaranteed basic health care and social security insurance only for those who needed them while introducing private providers and choice of services for those who could afford them. Given Poland's limited public finances, that seems the only realistic approach, and one can only hope that similar proposals will be the focus of discussion under the new government. The new governing coalition, however, is unlikely to seize on such proposals as the basis for social reform, unless it quickly understands the operative financial constraints. And under any circumstances, immediate, serious attention must be given to the need for targeted safety net programs for the increasing numbers of poor and unemployed, particularly as economic policy reversals by the new government are far more likely to exacerbate than to solve problems.

Either a Bolivia-style social fund or a Chile-style public works program would provide jobs and infrastructure improvement while giving impetus to municipal government development, a particularly important goal in Poland, where responsibility for all social assistance has been devolved to newly constituted, administratively weak, and resource-poor local governments. A social fund, in particular, would provide municipalities in Poland, particularly in rural areas, with needed experience and resources.

In severely depressed regions where unemployment threatens to be widespread and long term, and where large numbers of people need to be employed relatively rapidly, centrally implemented public works such as those used in Chile may be more useful and cost-effective than social funds for the short term. Such programs are also efficient at targeting the poorest workers through self-selection. In some cases it might be possible to use demand-based social funds concurrently to encourage municipal development and self-sustaining community projects.

Of course no safety net can take the place of either the structural economic reform that leads to sustainable growth or the broader social sector reform that improves delivery of essential services. Safety nets are complements to these processes and *cannot* replace structural change nor can they be expected to alter the allocation of assets such as land and capital. Ultimately the success or failure of safety nets hinges on the completion of structural reforms. Yet ironically, in Poland and Eastern Europe, where people are accustomed to comprehensive social welfare systems, the feasibility of these reforms hinges increasingly on implementing safety nets that can keep large numbers of people from falling into poverty. Otherwise public anxiety about the social costs of reforms will be heightened to the point that they cannot be carried out to their logical end, a trend that was frighteningly evident in the September parliamentary electoral results. And as many of the reforms are irreversible, Poland would find itself in the unenviable position of being caught between state and market. ■

PUBLIC

ANXIETY ABOUT

THE SOCIAL

COSTS OF

REFORMS WILL

BE HEIGHTENED

TO THE POINT

THAT THEY

CANNOT BE

CARRIED OUT

TO THEIR

LOGICAL END.

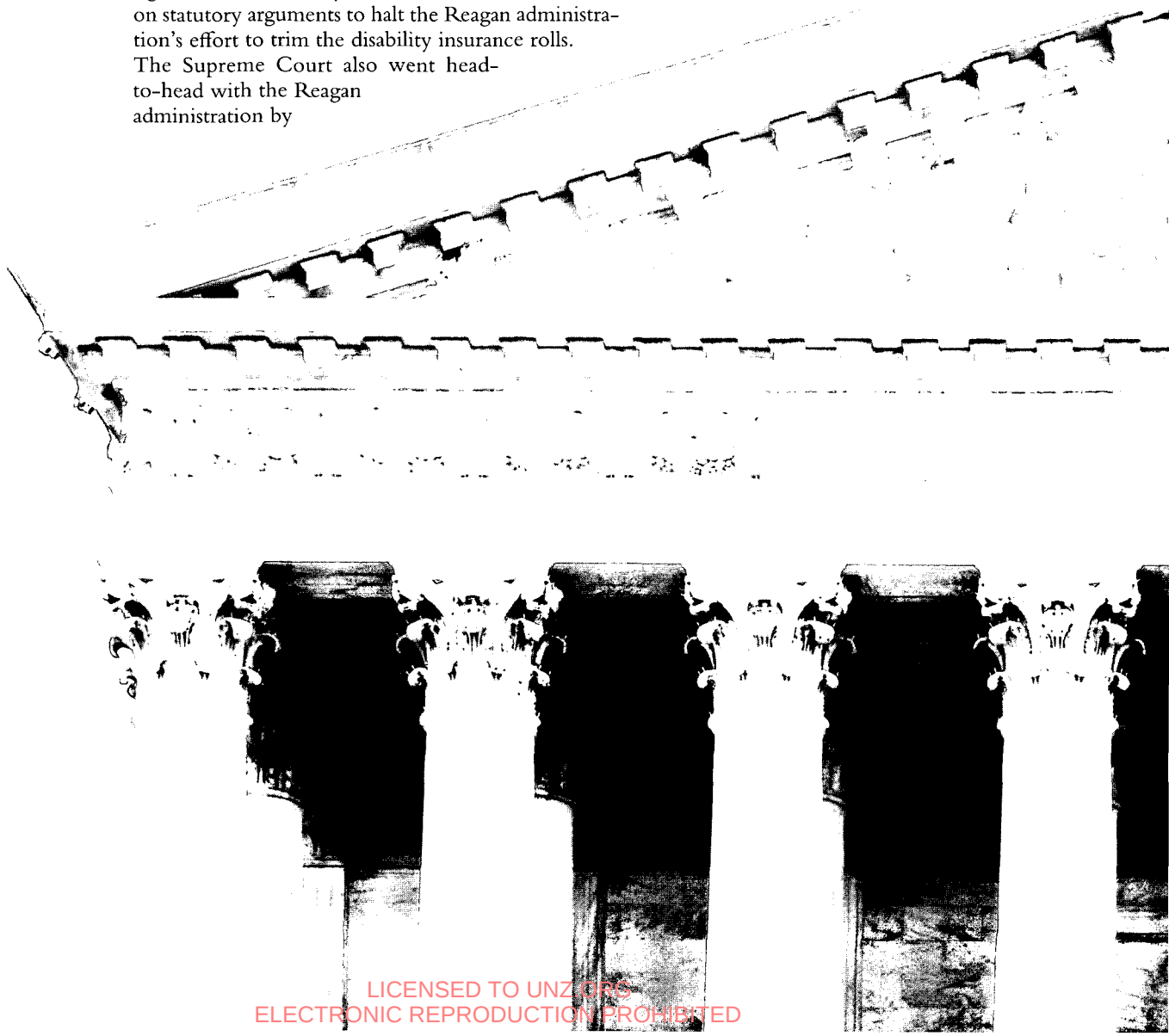
INTERPRETING THE POLITICS OF STATUTE

R. SHEP
MELNICK

Once confined to the dusty corners of law libraries, statutory interpretation by the federal courts hit the headlines in the 1980s, embroiling the courts in several highly publicized controversies. For example, when the Supreme Court issued a number of decisions narrowing previous interpretations of the Civil Rights Act, Congress responded by passing the "Grove City" bill of 1988 and the Civil Rights Act of 1991, both of which overturned court rulings and expanded the scope of civil rights laws. In the early 1980s the federal courts relied on statutory arguments to halt the Reagan administration's effort to trim the disability insurance rolls. The Supreme Court also went head-to-head with the Reagan administration by

interpreting the internal revenue code to prohibit the IRS from granting tax-exempt status to private schools that discriminate on the basis of race.

Much of the current debate over statutory interpretation has focused on Justice Antonin Scalia's spirited and persistent attack on the courts' use of legislative history. For years federal judges have consulted key elements of the legislative record, especially committee reports and floor statements, to help them determine the meaning of ambiguous statutory language and the intent of Congress. Justice Scalia has objected to this practice, arguing that the



ENTITLEMENTS

TORY CONSTRUCTION

job of the judiciary is to discover the meaning of the laws passed by Congress and signed by the president, not to reconstruct the intentions of members of Congress. Scalia has warned that "routine deference to the details of committee reports" threatens to "convert a system of judicial construction into a system of committee-staff prescription." Other jurists, including Justices John Paul Stevens, William Brennan, and David Souter, have argued that it is irresponsible for judges to ignore such obvious indications of what

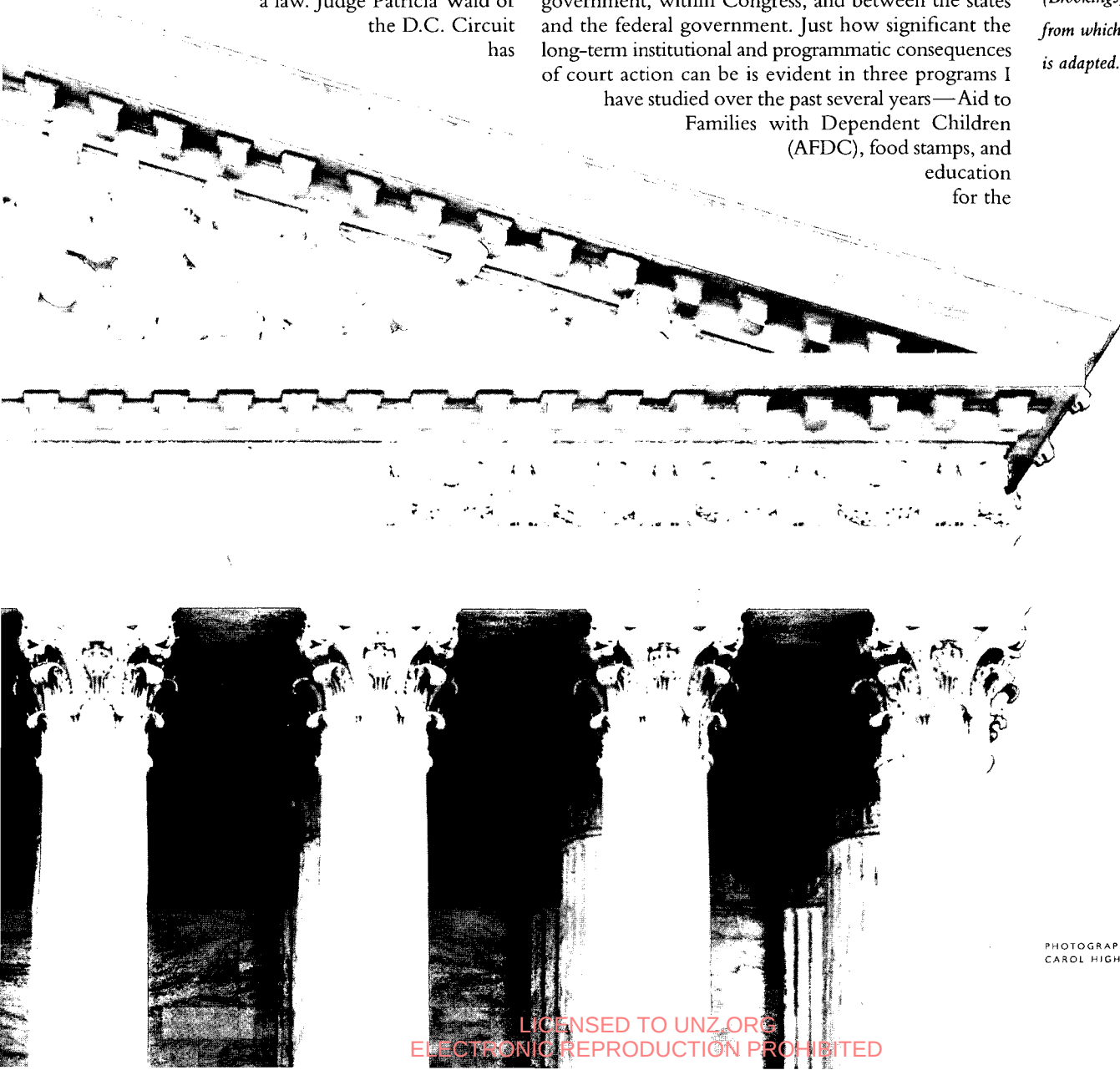
Congress had in mind when it passed a law. Judge Patricia Wald of the D.C. Circuit has

described Scalia's approach as "inherently executive enhancing." Her colleague Judge Abner Mikva, himself a former member of Congress, has warned that Scalia's approach threatens the "primacy of Congress." Some members of Congress, too, have worried that their influence will decline if Scalia's approach to statutory interpretation prevails.

The significance of statutory interpretation thus lies not just in the courts' ability to shape public policies, but also in the way judicial doctrines affect the distribution of political power among the three branches of government, within Congress, and between the states and the federal government. Just how significant the long-term institutional and programmatic consequences of court action can be is evident in three programs I

have studied over the past several years—Aid to Families with Dependent Children (AFDC), food stamps, and education for the

R. Shep Melnick is professor and chairman of the Politics Department at Brandeis University. He is the author of Between the Lines: Interpreting Welfare Rights (Brookings, 1994), from which this article is adapted.



PHOTOGRAPHY BY
CAROL HIGHSMITH

handicapped. In all three of these programs statutory interpretation by the federal courts expanded eligibility, increased benefits, and shifted control from the states to the federal government.

AFDC: Toward Greater Federal Control

The most dramatic change came in AFDC. From 1935 to 1968 state governments ran this welfare program subject to only a handful of federal rules listed in Title IV of the Social Security Act. Efforts to make eligibility requirements and benefit levels more nationally uniform repeatedly met with defeat in Congress. In a series of decisions issued between 1968 and 1972 the Supreme Court offered a novel reading of Title IV. Rather than presume that the states were free to establish eligibility requirements not prohibited by the federal statute, the Court held that states cannot "vary eligibility requirements from the federal standard without express or clearly implied authorization." Since the federal statute said very little about eligibility standards, this interpretation threw into question virtually all the AFDC rules established by the 50 states. In the words of a Senate Finance Committee report, the federal courts "used the very broadness of the Federal statute (intended to allow States more latitude) against the States by saying sometimes that anything the Congress did not expressly prohibit it must have intended to require—and sometimes that what the Congress did not expressly permit it must have intended not to permit."

The lower federal courts eagerly applied and expanded the Supreme Court's new reading of Title IV. They struck down scores of state rules on such diverse matters as methods for calculating income, verification procedures, and penalties for failure to register for work programs or to identify the fathers of children receiving benefits. The lower courts even ruled—a few years after *Roe v. Wade*—that federal law requires states to consider a fetus a "dependent child" eligible for welfare benefits.

The Supreme Court eventually chided the circuit courts for their "departure from ordinary principles of statutory interpretation." For many years, though, the justices remained unable to agree on clear rules for interpreting Title IV—thus leaving considerable discretion in the hands of lower court judges. Not until the mid-1980s did the Rehnquist Court rein in the lower courts by routinely ordering them to defer to state and federal administrators.

Food Stamps: The Right to an Adequate Diet

During the 1970s the courts also issued several important interpretations of the Food Stamp Act. The courts' guiding theme was enunciated by the D.C. Circuit, which saw the 1970 Food Stamp Act as marking "a shift from supplementing the diets of low-income households to *guaranteeing* those households the opportunity for an adequate diet." Congress, the courts held, intended "to assure that no eligible family need go malnourished." To protect this statutory right to a "nutritionally adequate diet," the courts required the Department of Agri-

culture to extend benefits to more households, to make certification procedures less cumbersome and intrusive, and to increase "out-reach" efforts to encourage poor families to apply for benefits. In addition the courts blocked efforts by the Ford administration to use administrative rulemaking to reduce spending on food stamps. In effect the courts ruled that the Ford administration could not unilaterally shrink a program the Nixon administration had unilaterally expanded just a few years before.

These court decisions had a decisive effect on the long and arduous congressional negotiations that culminated in passage of the food stamp amendments of 1977. Before the courts enjoined the Ford administration's rules, food stamp advocates were resigned to cutting a legislative deal with the administration. The program's chief sponsor in the Senate, George McGovern, had reached an agreement with the Republican leadership; the House was on the verge of passing a more restrictive bill. After the court action, though, program advocates realized they could afford to wait for a new Congress and, possibly, a Democratic president. Their strategy paid off: the legislation Jimmy Carter signed in 1977 was a far cry from the bill Congress nearly sent to Gerald Ford in 1976. It expanded the program in several important ways and created the program as we now know it.

Handicapped Children:

The Right to an "Appropriate" Education

The federal courts affected the development of the Education of All Handicapped Children Act (EAHCA) in two ways. First, two decisions by district court judges in the early 1970s provided both the model and the political catalyst for the federal legislation. Relying on a confused mixture of constitutional law and interpretation of state law, the two courts required state and local school systems to provide a "free appropriate public education" to all handicapped children. They also established elaborate procedural safeguards to protect this substantive right.

These judicial mandates raised costs substantially for some states and sent school officials scurrying to Washington to demand federal financial assistance. Advocates for the handicapped and their supporters on key congressional committees insisted that states that receive federal money demonstrate that they have protected the substantive and procedural rights of the disabled. The result was a detailed, prescriptive statute that required states to increase substantially their spending for special education.

A second wave of court rulings followed passage of the act. Although its sponsors sold the EAHCA as a way to reduce the extent of litigation, just the opposite happened. Nearly every school system in the country has at one time or another been sued for failing to provide particular students with an "appropriate

education” or “related services.” In its only ruling on the “appropriate education” mandate, the Supreme Court told federal judges to adopt a deferential standard of review. The act, Justice William Rehnquist wrote, is “by no means an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review.” Yet many district and circuit court judges have been quite willing to reject the “individualized education programs” submitted by school officials when more expensive educational plans promise to provide additional benefits to handicapped children. The *ad hoc* quality of judicial interpretations of key sections of the act emphasizes the enormous discretion wielded by district and circuit court judges in statutory interpretation.

Litigation as Leverage

Beyond their direct effect on AFDC, food stamps, and education of the handicapped, these court rulings also created opportunities for subsequent action in other political arenas. In all three programs attorneys representing recipients combined litigation with lobbying, and used victories in one arena to augment their leverage in others. For example, the Supreme Court’s initial AFDC decisions freed the Department of Health, Education, and Welfare to take a tougher line with the states. “Once the courts had spoken,” a government attorney explained, “the federal administrators could then respond by framing a rule embodying the judicially-enunciated principle, perhaps even embellishing it a bit.” Just as advocates for the handicapped used the two district court rulings of the 1970s to prod Congress into enacting the EAHCA, food stamp advocates used litigation to block action during the 94th Congress. Their eyes were on the prize of legislative expansion, and they recognized that timing was critical to their success. Litigation was just one part of a broader political strategy.

Legislative Histories or Judicial Presumption?

Although few aspects of statutory interpretation have received as much attention as the use and abuse of legislative history, in these three policy areas how judges used legislative history did not have much effect on their decisions. To put the matter baldly, in most instances judges threw in references to legislative history to buttress positions adopted on other grounds.

These cases provide ample support for Judge Harold Leventhal’s aphorism that citing legislative history is like “looking over a crowd and picking out your friends.” At the same time they undermine Justice Scalia’s claim that the courts’ use of legislative history inevitably strengthens the hand of congressional committees and their staff. In the case of AFDC and food stamps the authorizing committees were frequently angered by court decisions and eventually approved legislation overturning them.

Far more important than the courts’ use of legislative history are the assumptions judges make about federalism, separation of powers, and the nature of individual rights. Some judges are willing to enforce federal mandates only when Congress has made a “clear statement” to this effect. The clear statement rule, Justice Sandra Day O’Connor wrote in a recent case, “protects the balance of power between the States and the Federal Government struck by the Constitution.” Other judges start with the presumption that it is interstate variation rather than national uniformity that requires explicit statutory authorization. Similarly, some judges start with the presumption that an agency’s interpretation is acceptable unless it contravenes unambiguous statutory commands. As the Court stated in *Chevron v. NRDC*, “a court may not substitute its own construction of a statutory provision for a reasonable interpretation made by the administrator of an agency.” Other judges insist on making an independent evaluation of the meaning of legislation. For example, in a decision issued a mere three years after *Chevron* the Supreme Court announced that “a pure question of statutory interpretation is for the courts to decide.”

Equally important is a judge’s tacit understanding of the nature of entitlements in the welfare state. Underlying many decisions on AFDC, food stamps, and education for the handicapped is the assumption that once Congress has created a program to address the needs of a certain class of citizens—handicapped children’s need for education, low-income households’ need for nutritional assistance, single-parent families’ need for income support—then benefits should go to *all* those in need and should be adequate to meet these needs *in full*. Often this presumption is justified by reference to the general purpose or even the title of the statute. The effect is to create a rebuttable presumption

**FAR MORE
IMPORTANT THAN THE COURTS’
USE OF LEGISLATIVE HISTORY ARE THE ASSUMPTIONS JUDGES MAKE ABOUT FEDERALISM, SEPARATION OF POWERS, AND THE NATURE OF INDIVIDUAL RIGHTS.**

of eligibility. As one lower court judge put it in an AFDC case, if Congress had meant to leave some needy children "without any means of subsistence, there is good reason to suppose that it would have made its intent more explicit."

One reason statutory interpretation has become so controversial in recent years is that the Rehnquist Court has frequently rejected the presumptions commonly employed by the Supreme Court and the lower courts during the previous 20 years. The Court has become more willing to defer to administrators and more hesitant to impose federal mandates on the states. And it is now much less likely to adopt the broad understanding of entitlements.

As significant as these shifts are, it is important to keep in mind two features of statutory interpretation by the federal courts. The first is that the Supreme Court has hardly reached a consensus on most of these issues. While Justice Scalia's views have clearly influenced many Court decisions, he frequently writes concurring and dissenting opinions objecting to the Court's approach. Second, for most programs the statutory rulings of district and circuit courts are far more important than those of the Supreme Court—something the Clinton administration and the Senate should keep in mind as they consider nominations for district and circuit court judgeships.

Congress Reverses the Courts

Given the difficulty of getting legislation through the "obstacle course on Capitol Hill," it is rather surprising to find that many of the key court decisions affecting AFDC, food stamps, and education for the handicapped were subsequently rejected or modified by Congress.

Among those dissatisfied with court rulings on AFDC were California Governor Ronald Reagan (whose state welfare department lost a number of important AFDC court cases) and Senate Finance Committee Chairman Russell Long, who viewed judicial action on AFDC both as bad policy and as an affront to the authority of Congress. Although Long steered through the Senate many bills to reverse a long line of court rulings, almost all died in the House—until Long combined forces with the Reagan administration after

the 1980 election. The budget reconciliation acts of 1981, 1982, and 1984 included AFDC amendments that overturned or significantly modified six Supreme Court decisions and scores of lower court rulings.

When Congress reauthorized the food stamp program in 1977, it accepted some of the policies initiated by the courts. But it also took pains to eliminate the broad language the courts had earlier relied on to expand the program. The chief architect of the reauthorization, House Agriculture Committee Chair Thomas Foley, pushed his committee and staff to write a detailed bill that would resolve once and for all the major food stamp controversies. Conceding that in previous legislation "the intent of Congress was not as explicitly expressed as it might have been," Foley complained that "whatever intent there was has often been distorted in my judgment by the process of litigation." A primary purpose of "this entirely rewritten food stamp law," he told the House, "is to permit the program to be administered by the Department of Agriculture under oversight by the respective agriculture committees . . . rather than to be run by the Federal courts." Foley's strategy worked: never again were the courts major players in food stamp policymaking.

Congress has not been moved to respond to judicial interpretations of the broad substantive commands of the EAHCA. But when the Supreme Court ruled in 1984 that parents who win EAHCA suits cannot be awarded attorney's fees, many on Capitol Hill denounced the Court for distorting congressional intent. Two years later Congress passed the Handicapped Children Protection Act, which not only provides attorney's fees to parents who prevail in court, but even allows attorney's fees for some administrative hearings. In 1990 Congress overturned a Supreme Court decision that had made it difficult for parents to collect monetary damages in suits against school districts.

As varied as they are, these congressional responses to judicial action share two characteristics. First, they had the support of committee leaders—which suggests that the courts, notwithstanding Justice Scalia's fears, have not been particularly attuned to the views of committee leaders. The conflict is not simply one between the Rehnquist Court and the leadership of the Democratic Congress. Committee chairmen as different as Russell Long and Thomas Foley were equally dissatisfied with the judicial activism of the Warren and Burger Court era. As a very rough rule of thumb, one can say that what Richard Fenno has called "policy committees" (such as Education and Labor or Judiciary) have been most likely to object to the presumptions

**STUDENTS OF
CONGRESS, THE PRESIDENCY,
AND THE BUREAUCRACY CAN NO
LONGER IGNORE THE ROLE OF THE
COURTS IN CONSTRUING FEDERAL LAWS.**

employed by the Rehnquist Court, and that “prestige committees” (especially House Ways and Means and Senate Finance) and “constituency committees” (such as Agriculture and Veterans Affairs) were more likely to object to the presumptions employed by the Warren and Burger Courts.

A second feature of the congressional reversals is that all but one were part of a larger money bill. The AFDC revisions were contained in omnibus budget reconciliation bills. The food stamp changes were part of a massive reauthorization bill. And one of the two EAHCA reversals was inserted in a reauthorization. Only the Handicapped Children Protection Act was a free-standing piece of legislation. Reconciliation bills and reauthorizations provide committee leaders with convenient vehicles for moving their proposals through Congress. Just as important, when Congress routinely reviews programs, it frequently runs into policies that are the product of court decisions. When, as with AFDC and food stamps, Congress faces strong pressure to reduce federal spending, some of these policies will not survive.

Judges and Administrators

Both judges and legislators often see statutory interpretation by the courts as a mechanism for assuring that (in the words of Judge Skelly Wright) “important legislative purposes heralded in the halls of Congress are not misdirected in the vast hallways of the federal bureaucracy.” In the three programs examined here, though, judicial review proved a poor mechanism for ensuring administrative fidelity to congressional commands. Even during periods of divided government, members of Congress have substantially more control over administrators than over judges. Those who see judicial review as a way to preserve congressional influence should ponder the fact that Representative Thomas Foley preferred to deal with Earl Butz’s Department of Agriculture rather than with the federal courts.

My investigation of AFDC, food stamp, and special education policy turned up no examples of “runaway” federal agencies violating clear congressional directives or trying to sabotage congressionally established policies. Almost every important legal dispute involved the way administrators had interpreted ambiguous phrases or gaps in the statute. Ironically, the most obvious distortion of both statutory language and legislative history came in the *courts’* interpretation of the AFDC title of the Social Security Act.

As many students of American politics have noted, federal administrators are highly attentive to preferences and moods of members of Congress. According to Herbert Kaufman, bureau chiefs are “constantly looking over their shoulders at the legislative establishment relevant to their agencies.” Adds Kaufman, “Not that cues and signals from Capitol Hill had to be ferreted out: the denizens of the Hill were not shy about issuing suggestions, requirements, demands, directives, and pronouncements.” As a consequence,

administrators usually have a far more sophisticated understanding of a statute’s legislative history than do judges. As Peter Strauss, a veteran of two federal agencies, has put it, agency officials “essentially *live* the process of statutory interpretation.” They work with members of Congress day after day, testifying in hearings, revising legislation, negotiating annual appropriations, vetting nominees, writing reports requested by committees, and listening to members’ complaints about the consequences of agency action. They are acutely aware of conflicts within Congress and the nature of compromises worked out by warring factions. Judges simply do not have this level of exposure to the complexities and subtleties of congressional politics.

In addition, the informal, *post hoc* controls that members of Congress so frequently use against administrators cannot be employed against the judiciary. When members disagree with an administrative decision, they can call hearings, denounce the perpetrators in the press, threaten funding cuts, and stall legislation dear to the heart of the agency. When they disagree with a court ruling their only alternative is to go through the onerous process of passing new legislation. According to one committee staffer, “Congress is better able to coerce agencies than the courts to correct policy problems. Congress can use its influence on the executive branch through letter writing, telephone calls, and budget threats. I am unaware of the use of any threats by Congress against the judicial branch or any level of courts.”

Ironically, judicial deference to administrative expertise—the policy adopted by the Rehnquist Court in the mid-1980s—may actually enhance congressional influence. Of course, “congressional influence” here usually means the influence of committees and subcommittees, which all too often have a strong bias in favor of the programs within their jurisdiction. This is a serious problem, but not one for which there is a ready judicial solution. Encouraging judges to pay more attention to committee reports threatens to make the problem of parochialism worse. Encouraging them to engage in free-wheeling speculation about what non-committee members have in mind or what a more representative committee would have done is an invitation to judges to substitute their policy preferences for those of legislators and administrators. Compared with these alternatives, informal negotiations between legislative specialists and administrators don’t seem so bad after all.

Don’t Leave Laws to the Lawyers

Too long viewed as an arcane legal specialty, statutory interpretation should instead be seen as the point where the activities of judges, legislators, and administrators intersect. Students of Congress, the presidency, and the bureaucracy can no longer ignore the role of the courts in construing federal laws. And legal scholars must become much more familiar with the patterns of legislative and administrative behavior. Examination of AFDC, food stamps, and education for the handicapped shows that interpreting federal laws is too important to be left to the lawyers. ■

Electoral Earthquake

BY R. KENT WEAVER



Canada's October general election was a political earthquake. The Liberal Party, whose leader, Jean Chretien, was until recently derided as "yesterday's man" for his long service in the cabinets of Pierre Trudeau, won a strong majority. The Progressive Conservatives, who governed Canada for the past nine years, won only 2 seats in Canada's 295-seat House of Commons, and their leader, Prime Minister Kim Campbell, lost her seat in the House. The Bloc Québécois, which favors sovereignty for Quebec, will be the official opposition party with 54 seats. And the western-based Reform Party, with 52 seats, emerged as a force to be reckoned with in federal politics. How did this happen, and what does it mean?

Certainly the campaign had some effects. The Liberals' campaign was nearly flawless while the Conservatives went from one gaffe to another. But the roots of the shakeup lie in the collapse of the inherently unstable Conservative coalition built by former Prime Minister Brian Mulroney in 1984, the immense unpopularity of the Mulroney government in recent years, and Canada's winner-take-all electoral system for House of Commons seats.

Mulroney's great political achievement was adding to the two basic elements of the Conservative coalition—western Canadians who resented their perceived exclusion from power in Ottawa and fiscal conservatives who believed that the federal government had grown out of control—a third element—Quebec nationalists who felt that Liberal governments had trampled on provincial rights and ignored Quebec's aspirations for more autonomy. The aims of the western and Quebec wings of the party were often at odds, especially since western anger at federal policies such as official

bilingualism was largely directed at Quebec. The Conservative coalition was held together by Mulroney's persuasive power with his parliamentary caucus and by the desire of Conservatives to win and stay in office after years of Liberal domination in Ottawa.

The unpopularity of the Mulroney government in its last term put this coalition under intolerable strain. Voters turned against the Conservatives for many reasons. The Canada-U.S. free trade agreement, whatever its overall effect on employment in Canada, led to painful adjustments in Canadian industry and the loss of many identifiable jobs. It coincided, moreover, with a recession both longer and deeper than that in the United States. The imposition of a federal value-added tax was also hugely unpopular. And the bitterly divisive battles over ratification of the Meech Lake and Charlottetown constitutional reform packages further inflamed regional tensions.

Canada's electoral system, in which the winner of a plurality in each constituency wins the seat while other parties get nothing, wildly exaggerated the swing in voter sentiment. In Quebec and western Canada, where individual elements of the Conservative coalition had been particularly strong in the past, Conservative voters turned *en masse* to the Bloc Québécois and Reform. The new parties added to this base others with resentments against the Conservative government. But in Ontario and the Atlantic provinces, the old Conservative base was weaker, and the division of the former Conservative vote between Conservatives and the Reform party led to a virtual Liberal sweep.

In the end, Mulroney's effort to broaden the political base of the Conservative party may end up destroying it. What

does this portend for Canada and for its relationship with the United States? In Canada, the election reinforced regional divisions in party structure. It almost certainly means a permanent realignment of political forces in Quebec, with forces favoring Quebec sovereignty gaining a powerful voice in Ottawa. The Bloc's victory gives further momentum to pro-sovereignty forces already bolstered by Quebec voters' rejection of the Charlottetown accord last October. If the pro-sovereignty Parti Québécois wins the provincial election scheduled for next year, a referendum on sovereignty will follow in a year, with the pro-sovereignty forces probably losing by a narrow margin. Economically, the new Liberal government can be expected to follow a somewhat expansionist policy, but it has little room to maneuver given Canada's huge (\$40 billion Canadian) federal budget deficit.

The election should not affect Canada-U.S. relations much, at least in the short term. The new government will almost certainly make cuts in the defense budget, which may further inhibit Canada's capacity to undertake peacekeeping missions supported by the United States. In the run-up to U.S. congressional approval of the North American Free Trade Agreement, Canada's new prime minister clearly signaled his desire to make good on a Liberal election pledge by renegotiating certain sections of the agreement. But the new government's bargaining leverage is limited by the U.S. capacity to retaliate in ongoing trade disputes if the Canadians press too hard.

In any case, the major aftershocks of Canada's political earthquake will be felt north of the border. Just how severe they will be and how long they will last remains to be seen. ■

R. Kent Weaver is a senior fellow in the Brookings Governmental Studies program. He is the editor and co-author of *The Collapse of Canada?* (Brookings, 1992).

NAFTA: Doing Well by Doing Good

BY NORA LUSTIG

Now that Congress has approved the North American Free Trade Agreement and the rhetoric has quieted, we will have the chance to see what the agreement will actually mean for the people of Canada, the United States, and Mexico. For all the hyperbolic talk of the threat the agreement poses for American workers, the fact is that they stand to reap significant gains from NAFTA—gains that will result from even greater gains expected to fall to Mexican workers.

The primary source of benefits for American workers from NAFTA will be higher incomes in Mexico. According to a leading forecasting firm, NAFTA will double both the growth rate of Mexico's overall economy and the growth rate of its wages—specifically boosting the wage growth rate from 1.2 percent a year to 2.4 percent a year between 1994 and 1998. Mexican workers and producers, who are already enthusiastic customers of U.S. products (70 cents of every dollar spent on imports goes for goods produced in the United States), should soon be buying even more from U.S. exporters. Mexican workers, in particular, are just beginning to be able to afford the "Walmart" package of household items that American firms produce and market so efficiently.

Since 1989 Mexico's economy—and, with it, Mexican wages—has been recovering from the debt crisis of the early 1980s, which cut Mexican wages by 40 percent. Mexican economic reforms (reducing the budget deficit, liberalizing trade, and privatizing inefficient public enterprises) put a stop to a decade of capital flight. The debt agreement engineered in 1987 by the world's industrialized nations also helped turn the tide. When Mexican and

foreign capital began flowing back to Mexico, the economy—and wages—began to grow again. As the economy strengthened, imports from the United States rose—and have been rising at roughly \$6 billion a year since 1989. Passage of NAFTA is expected to increase still further both Mexican and foreign investment, Mexican wages, and imports from the United States.

Before NAFTA was approved, opponents argued that Mexican wage and price controls enacted as part of the 1980s reform program will keep Mexican wages from growing. But, in fact, under Mexico's "social compact" (known as "Pacto") real average manufacturing wages jumped 30 percent between 1988 and 1992 even though labor productivity increased only 19 percent.

Higher wages in Mexico will not only enable Mexican workers to buy more American goods. They will also reduce the pace of undocumented migration of Mexican workers to the United States. During the 1980s almost 40 percent of Mexicans earned less than \$2 a day, and the resulting high poverty rates created an inexorable pressure to migrate northward. The mass migration from Mexico pushed down the wages of unskilled U.S. workers and also increased the burdens on the U.S. health care and education systems. Critics of NAFTA warn that the lowering of Mexican tariff barriers to U.S. grain exports will displace Mexican corn farmers and cause another surge of illegal immigrants northward. But Mexico has announced it will spend \$4 billion a year to compensate farmers hurt by NAFTA.

Although much has been made of the danger to U.S. workers posed by low-cost Mexican labor, in fact unit labor costs are not much higher

in the United States than they are in Mexico. The reason? U.S. workers are several times more productive than their Mexican counterparts. Not only does the average working-age Mexican have just half the education of an average American adult (6 years compared with 13), but the average Mexican worker produces with only about one-sixth the plant and equipment that backs up American workers.

Before the treaty was approved, the press focused on a few modern auto plants in Mexico, whose workers were said to be as productive as those in the United States. But, as businessmen and businesswomen know, what matters is the total cost of producing and delivering goods to market. Mexico's system of transportation, communications, and other utilities lags far behind the United States, which has 13 times more paved roads per square mile and 7 times more telephones per 1,000 people, to cite but a few examples. Thus even the most modern plants in Mexico may have trouble competing with the United States. According to a recent Office of Technology Assessment study, for example, the total cost of delivering a car to the U.S. market is about 5 percent higher for a plant in Mexico than for one located in the United States.

Although NAFTA will not knock down a "Berlin Wall" of trade barriers in either direction (U.S. tariffs on Mexican goods average about 5 percent; Mexican tariffs on U.S. goods, about 10 percent), tariffs will drop far more for U.S. goods going south than for Mexican goods shipped north. Rather than the "giant sucking sound" of U.S. jobs flowing south, what Mexicans may soon be hearing is the sound of a wave of cheap, high-quality U.S. goods pouring over their borders. ■



Nora Lustig is a senior fellow in the Brookings Foreign Policy Studies program. She is the author of Mexico: The Remaking of an Economy (Brookings, 1992).

Crisis, TV, and Public Pressure

BY STEPHEN HESS



Last September, in a speech outlining the Clinton administration's foreign policy, National Security Adviser Anthony Lake cautioned that "public pressure for our humanitarian engagement increasingly may be driven by television images."

This proposition has become the conventional wisdom. And just because it is commonly assumed to be right, it need not be wrong. Yet surely it deserves parsing. We don't respond equally to all stimuli. Is it not possible to make distinctions that can help policymakers gauge how Americans are going to react to crisis images?

The classic case of a crisis response involves the October 23, 1984, NBC Nightly News report about famine in Ethiopia—famine that had gone virtually unrecognized for a decade by American TV. When a freelancer had offered film on the famine to CBS, NBC, and PBS in 1983, all had turned him down. But the BBC did a story that was seen by NBC's London bureau chief, Joseph Angotti, who urged it on his bosses. They declined. He sent it to New York anyway, where anchorman Tom Brokaw insisted on using it.

The response was immediate. A deluge of famine stories followed as viewers pressured the Reagan administration to respond. Federal food aid increased from \$23 million for fiscal 1984 to \$98 million. But within a year, though famine persisted in Ethiopia, TV coverage had returned to its pre-1984 level. The public had tired of the issue. And the networks were happy to drop an expensive and unattractive story. Thus ended public pressure on this U.S. policy.

Marvin Kalb, veteran network diplomatic correspondent and now a Harvard professor, says that the media have two criteria for covering an overseas

event. One: does it have "sizzle"? Does it deal with a riot, a hijacking, or some other happening that can stir emotions? Two: are U.S. troops involved? Famine in Ethiopia had "one," not "two." Apparently "one" will get a story on the air, but it takes "two" to keep it there.

Changes in the TV news business since 1984 also matter. All three networks changed hands in 1986, but only one new owner, ABC's CapCities, was in the media business. And only ABC has remained committed to seriously covering international news. In the cost-cutting world of today's networks, a large corps of foreign correspondents, once the pride of CBS and NBC, has been replaced by parachute journalists. By 1992, for example, NBC had only nine correspondents permanently posted abroad.

Parachute journalism means that the networks pay a great deal of attention to a story but only briefly. When, on December 8, 1992, the Navy SEALs arrived in Mogadishu and were greeted on the beach by the American media, the three networks together devoted 45 minutes of primetime news broadcasts to Somalia. A week later, after the anchormen had gone home, the collective news count was down to 13 minutes; 8 minutes by December 17.

The other big media development since Ethiopia is the rise of CNN, founded in 1979, but first truly capturing world attention with its Gulf War coverage in 1991. Yet on non-crisis days, CNN has only small audiences at home. While 30 million people in the United States watch the evening news on the three broadcast networks, fewer than a million see CNN's prime evening program. "Public pressure" is still most likely to come through the networks.

When the TV anchormen left Mogadishu a year ago, network coverage shifted to Sara-

jevo. The teeter-totter relationship between Bosnia and Somalia as a news story (when one is up, the other is down) relates directly to Kalb's second law: the cameras follow the troops, or at least go where they expect the troops to be. The added TV coverage from ex-Yugoslavia last winter grew out of the expectation that President Clinton was gearing up to involve the United States. The networks began to pay serious attention. Total Bosnian coverage for April 1992 was 14 minutes; by February 1993 it had risen to 95.

Bosnia is a searing story about hunger, suffering, and immense inhumanities. Moreover, it is happening in Europe and is being beamed back to a nation of majority European ancestry. Still, Americans refuse to be "public pressure." (Nor did the United States get involved in Somalia because of television-induced pressure. We are there because George Bush, for many reasons—humanitarian, psychological, geopolitical—willed us to be there.)

What, then, might we conclude from these cases of crisis, television, and public pressure?

TV is a reactive medium. It is not in the policy-initiating business, despite what government officials may think. Finding crisis in Ethiopia was accidental. Overseas camera crews rarely are allowed to go looking for crisis. It's too expensive. Other than the episodic "sizzle" stories, they tend to follow the flag (Somalia) or go into areas of probable involvement (Bosnia).

Thus, a president has great leeway in the policy-formulating period, regardless of TV's capacity to generate public pressure. This wide margin for maneuver roughly extends to the point where American lives are in danger. After that, the TV pictures kick in, and a president's options shrink rapidly. ■

Stephen Hess is a senior fellow in the Brookings Governmental Studies program. His next book will be about U.S. foreign correspondents.



ASSASSINATION IN KHARTOUM

DAVID A. KORN

The gripping account of the 1973 murder of two American diplomats by the Palestinian terrorist group Black September in Khartoum—and how the U.S. government failed to bring the assassins to justice.

Reads like a thriller.

"... one of the most riveting, moving, thrilling, and exhilarating books I have read in years. ... A masterpiece."

—Steven Emerson

"... a superb achievement."

—Barry Rubin

"... a sad, tragic story but Korn writes it with the skill and pacing of the best of authors of espionage thrillers."

—Jim Hoagland

*Published in association with the
Institute for the Study of Diplomacy,
Georgetown University*

CLOTH \$24.95

At bookstores or from

**INDIANA
UNIVERSITY
PRESS**

Bloomington, IN 47404

Orders: 1-800-842-6796

Brookings Seminars

The Federal Budget: Fiscal Year 1995

February 23–24, 1994

Washington, DC

The Federal Budget: Fiscal Year 1995 will help you understand spending and revenue priorities of the Clinton Administration. Fiscal Year 1995 budget proposals will be evaluated in the context of the overall state of the American economy and changing domestic and international policy priorities. You will gain perspectives from the Congress, the Executive Branch, state and local governments, the business community and scholars on a variety of specific issues, including:

- Budgetary Implications of Health Care Reform
- Impact of the National Performance Review on the FY1995 Budget
- Outlook for the Defense Budget
- The Revenue Side of the Budget Equation
- Budget Proposals Related to Investments and Enhancing U.S. Competitiveness
- Challenges Faced by "Big Science"
- Progress in Reducing the Federal Budget Deficit

Tuition is \$725.

For More Information

Call Alka Desai at (202) 797-6172

or send in the attached business reply card.

BROOKINGS BOOKS

WINTER '94

VALUES AND PUBLIC POLICY

Henry J. Aaron, Thomas E. Mann,
and Timothy Taylor, Editors

Essays by James Q. Wilson, Daniel
Yankelovich, Jane Mansbridge, David
Popenoe, Nathan Glazer, George Akerlof,
and Janet L. Yellen

"The best recent discussion of the effects
of our values on national policy. It indi-
cates the limits and opportunities facing
our political leaders." Seymour Martin
Lipset, George Mason University
cloth \$29.95 / paper \$11.95

JAPAN'S NEW GLOBAL ROLE

Edward J. Lincoln

"Again, Lincoln provides balanced anal-
ysis and prescription of complex prob-
lems in an accessible style. He is one of
the few economists who can profitably
combine economic and political per-
spectives." Robert C. Angel, University
of South Carolina
cloth \$28.95

EVALUATING POLICY REGIMES

New Research
in Empirical Macroeconomics

Ralph C. Bryant, Peter Hooper,
and Catherine L. Mann, Editors

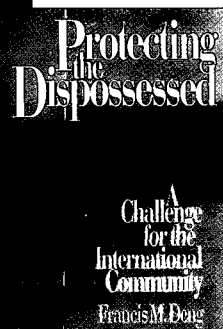
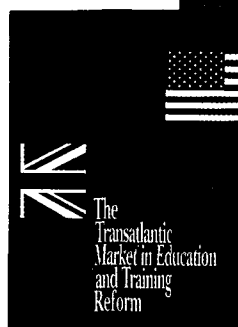
This book explores what approach to
monetary policy would lead to superior
performance by individual national
economies and the world economy
as a whole.
cloth \$49.95 / paper \$29.95

TAX REFORM AND THE COST OF CAPITAL

An International Comparison

Dale Jorgenson and Ralph Landau, Editors

"A comprehensive reference on the
changes in capital income tax policy
throughout the industrialized world
during the 1980s. No researcher or poli-
cymaker interested in capital formation
and tax policy should be without it."
James M. Poterba, MIT
cloth \$44.95 / paper \$19.95



GOING PRIVATE

The International Experience
with Transport Privatization

José A. Gómez-Ibáñez and John R. Meyer

"Going Private merges painstaking
empirical research with creative concep-
tualizing. It is a definitive inquiry, at
once careful and comprehensive, by two
masters of the craft." John D. Donahue,
Harvard University
cloth \$36.95 / paper \$16.95

PUBLIC POLICY FOR DEMOCRACY

Helen Ingram and
Steven Rathgeb Smith, Editors

"Public policy is shaped by citizens,
but citizens are also shaped by public
policy. The authors of the book shed
new light on the myriad ways in
which government and citizen inter-
act—a first step in strengthening both
democracy and democratic theory."
Alan Wolfe, Boston University
cloth \$34.95 / paper \$14.95

PROTECTING THE DISPOSSESSED A Challenge for the International Community

Francis M. Deng

"Deng's vivid first-person account of
the suffering of millions of internally
displaced civil war victims presents
a new challenge to the international
community." Ambassador Herman J.
Cohen, Assistant Secretary of State
for African Affairs
cloth \$26.95 / paper \$9.95

SOMETHING BORROWED, SOMETHING LEARNED? The Transatlantic Market in Education and Training Reform

David Finegold, Laurel McFarland,
and William Richardson, Editors

Focusing on programs in education
and training reform, this book considers
Britain's policy borrowing from the U.S.
during the final years of the Thatcher
government.
cloth \$34.95 / paper \$14.95

Now Distributed by Brookings— Books from the Trilateral Commission

INTERNATIONAL MIGRATION CHALLENGES IN A NEW ERA Policy Perspectives and Priorities for Europe, Japan, North America and the International Community

Doris M. Meissner, Robert D. Hormats,
Antonio Garrigues Walker, and
Shijuro Ogata
paper \$9.00

KEEPING THE PEACE IN THE POST-COLD WAR ERA Strengthening Multilateral Peacekeeping

John Roper, Masashi Nishihara, Olara A.
Otunnu, and Enid C.B. Schoettle
paper \$9.00

At bookstores and from BROOKINGS BOOKS

For credit card orders, call toll-free 1-800-275-1447 or (202) 797-6258 in the Washington area, or fax (202) 797-6004.
Or mail check to: The Brookings Institution, Dept. 029, Washington, D.C. 20042-0029.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED